Chronicles

August 1996 A MAGAZINE OF AMERICAN CULTURE $3.95

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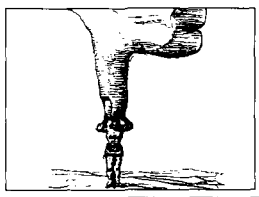
A MAGAZINE OF AMERICAN CULTURE



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Chronicles
A MAGAZINE OF AMERICAN CULTURE

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On the Balkans

Sol Schindler's review of Susan Woodward's *Balkan Tragedy* ("The Politics of Causation," March 1996) gives us a good general picture of Yugoslavia's breakup, but it deserves to be supplemented with some specifics. It is by all odds the most thorough and most lucid of all the books dealing with that subject. Why have the major American newspapers, notably the politically correct *New York Times*, *Washington Post*, and *Los Angeles Times*, given it the silent treatment? The short answer is that it knocks into a cocked hat their campaign of the past few years to blame the Serbs as the main destroyers of Yugoslavia.

Initially, Woodward presents a detailed picture of the nature of the economic crises confronting the country, and the inability of the political system to find solutions, largely because of a deadlock brought on by the wealthier and more Western regions (Slovenia and Croatia), which had political and economic privileges to protect. She points out that Slovenia and Croatia were "unalterably opposed to reforms that would make it possible to create a democratic system at the federal level," and Slovenia "continued to veto any countrywide expression of preferences, from a proposed federal referendum on the constitutional amendments at the end of 1988 to a referendum on the fate of the country scheduled in 1990."

Moreover, Slovene and Croat officials illegally purchased sophisticated weapons abroad, armed their local militias, and rejected the federal government's request to disarm them. In addition, Slovene and Croat officials, while still part of Yugoslavia's governing system, conspired with officials in Bonn and Vienna to destroy the state. Also, Croatia did little to protect its Serbian citizens "from vicious outbursts of anti-Serb terror in some mixed communities," and the Croatian government in various ways discriminated against the Serbs, fueling Serb fears that there would be a repeat of the vast massacres of Serbs by Croats and Muslims that had taken place in the Nazi-satellite Croatian state during World War II.

A large part of the book is a devastating commentary on the role of Western Europe and the United States in the destruction of the Yugoslav state. The West's hasty recognition of the secessionist republics aided and abetted them in the violation of the Helsinki Accords' proviso against the use of force in changing the boundaries of an internationally recognized state. Moreover, the United States (the executive branch and Congress) in effect told the Yugoslav Army, six months prior to the secessions, that its constitutional prerogative to defend Yugoslavia's borders from internal threats would be considered illegitimate. There is page after page of documentation of actions by the Western powers that insured war.

The author concludes that the United States bears "a heavy responsibility in the Yugoslav tragedy," pointing out that whenever "developments toward the Yugoslav conflict seemed to challenge the United States leadership in Europe, it stepped in." And when it did, it scuttled two European-sponsored peace plans, one accepted by all three parties and the other by both the Bosnian Serbs and Croats. The Muslims, she says, "had no incentive to negotiate any compromise, when the United States offered air strikes against the Serbs."

The author is also critical of the media for their biased reporting of Serb actions without mentioning acts that provoked them. "The Croatian government . . . placed sharpshooters on the walls of Dubrovnik," and Croats and Muslims "placed mortars and artillery batteries within the walls of hospitals . . . drawing fire from Serb gunners to gain international reaction."

There are some historical errors, but the most substantive failing of this study is the absence of a discussion of the Muslim president's book, *The Islamic Declaration*, particularly its antipluralist rhetoric. This fact does not, however, diminish the book's contribution as an excellent source for serious students interested in the causes of Yugoslavia's disintegration, as well as the miserable and misguided attempts of the international community to manage the Yugoslav crisis.

—Alex N. Dragnich
Bowie, MD

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On Flogging

Dr. Sherman McCall believes ("Flogging," February 1996) that flogging criminals could be less costly and more effective than imprisonment, and presents data showing that flogging reduced the crime rate significantly in states that used it (albeit exceptionally) compared to states that did not. Thus "Arkansas lashed three men in June 1946 for burglary and grand larceny. It was a tonic."

Dr. McCall presents similar data for other states that sporadically used the lash. But it is preposterous to believe that one flogging administered to two or three criminals reduced the crime rate in the following (let alone the preceding) year. Were it so, flogging could solve our crime problem, and I would be for it. Unfortunately, it is not so.

Flogging and mutilation were widely used in the past in Europe. By all indications, crime rates were higher than they are today. Corporal punishment (except for the death penalty) is no longer used in the Western world. Rationalists thought it better to appeal to the criminals' reason by imprisoning them, to reflect on their sins. As currently practiced, this is not very effective either (though it prevents *most* people from committing crimes). It is costly, too, because we find it necessary to equip prisons with televisions, gyms and exercise machines, and many other amenities. Above all, in most state prisons, prisoners are prevented from working.

I would advocate stricter and cheaper prisons, and 48 hours of work for inmates per week. I would also abolish the exclusionary rules that prevent the admission of evidence if police officers have not followed the book in making an arrest or a search. (If his violation was intended, the officer should be punished.) Many other reforms are needed, but flogging is not among them.

—Ernest van den Haag
New York, NY

Sherman McCall's eloquent argument in support of flogging as a criminal punishment is of particular interest because he signs himself as a physician. The Hippocratic Oath requires that physicians use their art to cure, treat, etc., and "never [to] use it to injure or wrong." That a physician can openly advocate such "treatment" is certainly welcome. In 1983, when I published *Just and Painful: A Case for the Corporal Punishment of Criminals*, I was portrayed by the national media as a weird throwback to the 17th century, a fool who was out of step with the times, advocating barbaric practices. To see a physician refer to flogging as "humane" is most heartening, because that is the point I have tried to get across over the years.

However, the bulk of McCall's article deals with the hope and prediction that corporal punishment will reduce crime rates and deter crime. I would be prepared to wager that scientific studies will be unable to demonstrate its effectiveness as a deterrent. Social science has been unable to demonstrate that prison deters or reduces crime. Nor has it been able to show that rehabilitation or treatment work either. One can play with the statistics to produce just about any "proof" one wants. I can understand the temptation to "sell" corporal punishment as a deterrent, since that is the most popular reason given by legislators for introducing or changing criminal sentences. It does, perhaps, speak more directly to the widespread public fear of crime, although in the latter case, getting criminals off the streets and to hell with anything else is probably the best political position for any legislator. As I noted in my book, deterrence philosophy, a branch of utilitarian ethics, has a number of moral shortcomings, so it is preferable to argue for the introduction of corporal punishment on other, more morally defensible grounds.

In my view, corporal punishment is best justified according to two basic arguments. First, it is a thoroughly humane punishment when compared to all the other punishments tried so far on criminals. Liberals have ridiculed the suggestion that corporal punishment is humane. Their outcry against corporal punishment is based essentially on the distorted use of the term "violence," and more recently "child abuse." The carefully measured administration of corporal punishment to a child or criminal is not cruel simply because it intentionally inflicts pain. If this were so, we should refuse to allow children to visit the dentist, or to have shots. It is pain inflicted on offenders according to a well-developed justification; that is, it is punishment administered with good reason, to teach a moral lesson. It is not pain wantonly inflicted on another, because one "feels like it" or "doesn't like" the individual. In the latter cases, the intentional infliction of pain would be violence or abuse. Furthermore, corporal punishment *is* a punishment clear and simple, emphasis on the simple. It conveys a clear message that this individual is *really* being punished (i.e., he is not receiving something called probation or one of the other "punishments" that defies clear definition as either punishment or treatment). The clarity of the punitive enterprise thus avoids the inhumane conditions that are inflicted on offenders under the guise of "rehabilitation" (which usually means "incarceration"). Is there any state that has a "Department of Punishment"?

Second, the clarity and simplicity of corporal punishment affirm the moral wrongdoing of the criminal. There is no "apology" to him for his being punished. There is no suggestion that it may have been society's fault, or that his unhappy childhood or any one of the many social science excuses for criminal behavior may have caused his crime. The clear and simple moral message of the punishment is crucial not only for the offender who is being punished, but for the society that observes or "administers" it. It is common to hear lamentations today that the moral fiber of our society has been eroded. Moral behavior has been inculcated into children for as long as we can remember in Western civilization through the use of punishment when rules have been broken. Liberals may complain that such a culture is "cruel," but the fact is, suffering lies at the heart of most moral teaching in the West. Like it or not. Get rid of or tamper with punishment, and you undermine a pillar of Western culture.

Corporal punishment is a sensible, humane response to the call in our society for a return to simple moral values, simple affirmations of right and wrong. This does not mean that offenders have to be beaten senseless when they break the rules. But it does mean that swift and certain punishment—the hallmark of corporal punishment—is the most effective communicator of the essential connection between the infraction and the punishment. The drawn-out punishments of prison, probation, etc., fail to make this clear and precise connection.

—Graeme Newman
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REPUBLICAN CONGRESSMAN Steven Gunderson of Wisconsin, who hosted the homosexual "circuit" party called the Cherry Jubilee at a federal building in Washington last April 13, was upset by our article about the event written by Marc Morano ("Sex, Drugs, and a Republican Party," July 1996). When Congressman Robert Dornan (R-CA) read the *Chronicles* article into the *Congressional Record*, and the subject became the topic of national talk radio, Gunderson exercised the seldom used "point of personal privilege" to seize the House floor and denounce Mr. Morano and his article. Gunderson called Morano a bigot who had distorted the facts in an effort to smear the "gay community," and he blasted Dornan for sanctioning such bigotry.

Morano videotaped much of what went on at the party, and though the lighting was poor in the areas he was filming, several witnesses—including a gay reporter for the *City Paper*—have confirmed his account. Nevertheless, Gunderson charged that Morano's report was riddled with lies. In return, Morano issued a point-by-point rebuttal.

For example, Gunderson charged that Morano gave false information about himself in order to attend the party, that he did not purchase a ticket, and that he attended it without any press credentials. But Morano did try to obtain a press pass, only to be told that none were being issued. In order to attend, he was forced to buy a ticket outside the entrance to the Andrew W. Mellon Auditorium and another one inside.

Gunderson insists that "security reported no fights, no harassment, no drugs, no smoking, nor any sexual activity." Several guests at the party, however, have boasted about the illicit activity they engaged in. Morano points to John Cloud, a homosexual reporter for the *City Paper*, who admitted to seeing "a fair number of people using drugs," and to a columnist for the *Metro Weekly* who bragged that "We spent much of our time out on the dance floor trying to cop a feel, or back in the sponsor's lounge trying to cop a feel, or outside in the designated smoking area trying to cop a feel and a smoke." Morano's video recorder did not pick up all of this activity because security personnel forced him to remove it from the premises.

Gunderson also maintains that the outer stairwell of the Mellon Auditorium was closed for "construction," not for sexual rendezvous. This may be true, but as Morano points out, this area served another purpose at the GOP event. It was "screw alley," as one guest indelicately put it.

BOB DOLE, in what we were assured was an "emotional moment," read these words (reportedly written by novelist Mark Helprin) when announcing his decision to leave the Senate: "I will seek the presidency with nothing to fall back on but the judgment of the people of the United States and nowhere to go but the White House or home." Only a politician is incapable of writing his own letter of resignation when quitting a job.

By "home," Helprin the ghost sought to conjure up golden wheatfields and dusty roads and the sun setting on Russell, Kansas, as Bob and Liddy sip lemonade on the front porch, serenaded by crickets, serene in the bosom of home sweet home. But what "home" means to Dole, the future Archer Daniels Midland director, is a cab ride to the Watergate or an occasional hop down to the condo in Bal Harbor.

Of postrepublic Presidents, only Democrats (Truman, LBJ, Carter) retired to their natal states. It's easy to imagine ex-President Bill Clinton, footloose and Hillary-free, contentedly going through the "sweet sweet Connies from Little Rock," but come what may in November, I do not think the boys at the Russell Rotary Club should plan on setting an extra plate for prodigal brother Bob.

For Senator Dole, Russell, Kansas, seems to have faded to just a picturesque backdrop for tearful speeches ghosted by virtual strangers. Once there was a way to get back home—but not anymore, not for Bob Dole.

—*Bill Kauffman*

THE ANTI-GANG statute of Harvard, Illinois, which has served as a model for similar statutes in many Chicago suburbs, was recently struck down by an Illinois appellate court. The Harvard law made it a crime to display gang colors and symbols—such displays lead to frequent clashes, violence, and murder. The challenge came from an admitted gang member arrested in March 1993 for wearing a six-pointed star—the symbol of the Gangster Disciples. (In an Illinois high school, a gang member recently protested his suspension on the grounds that his six-pointed star expressed his solidarity with Judaism!) The judges ruled that the proliferation of gang colors and symbols made the application of the law "not merely broad . . . but open-ended and potentially limitless."

Free speech is at a premium in the United States, but it is hard to see how the display of gang colors is a First Amendment issue. Gangs are, by definition, criminal conspiracies, and it should be easy to distinguish between a student wearing a football jersey and a gang-banger flashing his colors. In a doubtful case, the burden of proof should be on the state, but when the case involves an admitted gang member, as it does in Harvard, then the judges, in ruling to protect the colors, have joined the gang.

—*Thomas Fleming*

CHILDCARE is back in the news, thanks to a new study conducted by the National Institute of Child Health and Human Development, a division of the National Institutes of Health. Preliminary results of the study, which has been touted as the "most far-reaching and comprehensive" examination of the effects of childcare to date, were released on April 20, and they appear to contradict earlier studies on the adverse effects of childcare.

The results, as Joan Lunden said on *Good Morning America*, may surprise you. They shouldn't. The federal government has a vested interest in maintaining the daycare industry. Daycare centers are a remarkably efficient way to remove children from the influence of their parents, and to substitute government-approved indoctrination for the natural transmission of culture from one generation to the next. Moreover, doubts about daycare might cause some women to reconsider their decision to entrust their children to strangers, and in the process expose the dirty little secret of

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the American economy: the bulk of the economic growth of the past 20 years—especially during the "family values" era of Reagan and Bush—has been the result of mothers entering the workforce. Indeed, had mothers not entered the workforce in historic numbers, real household income would have declined during the 1980's.

According to the *New York Times*, "The new study was designed . . . to address one of the most emotionally charged issues in society today: Does a mother put her child at risk by working outside the home?" But unlike studies which have focused on *quantifiable* risks of daycare—i.e., middle-ear infections and other measures of health—this study "measured" the "sense of trust" that 15-month-old children felt for their mothers. The 25 researchers on the project concluded that such trust is a function of the "sensitivity and responsiveness" of the mother, and is not affected by particular childcare arrangements.

Most of the media have followed Joan Lunden's lead, reporting that this study "proves" that childcare poses no risk to children. Who knows, the ballyhooing of the study by the national media may even have influenced the Michigan Supreme Court's ruling that a woman's decision to place a child in daycare cannot be used against her in a custody battle.

Buried deep in the *New York Times* article, however, is the admission that "later stages of the study" will examine such quantifiable risks as adverse effects on "cognitive and language skills, physical development, health, [and] behavior." The fix is in. By releasing these "preliminary" results with great fanfare two or more years before the final results will be in, the researchers have laid the groundwork for dismissing any findings which might not serve the needs of government and big business. Why should it matter if your daughter suffers from recurrent middle-ear infections, has trouble making herself understood, and acts like a barbarian? At least her sense of trust in you is intact. Whether it should be—after what you've subjected her to—is another question, one the federally funded researchers won't touch.

Others have, and the results are clear. Children in daycare are almost seven times as likely to contract pneumonia as children who are cared for at home. They are twice as likely to suffer from acute middle-ear infections, which can confound their language development and even result in hearing loss. By the time they turn ten, five or six years after they left daycare and entered school, they are far more aggressive, have lower grades and poorer study skills, and generally have trouble interacting with their peers.

The term "child care," rather than the more common "daycare," is used throughout the study, and a closer look reveals why. As the *Times* reports, this study "includes more diverse families and *more types of child care*" than previous ones. The new types included "care by fathers or relatives or in the home by a caregiver," all of which, not surprisingly, were found to be of better quality than institutional care. The inclusion of these categories may be a deliberate attempt to mask the adverse effects of institutional care.

A friend of mine once stayed home with his children while his wife attended a Tupperware party. The hostess, meeting his wife at the door, asked her if my friend was "babysitting" the children. Taken aback, his wife responded, "Well, you know, they are his kids." By adopting the hostess' attitude and not distinguishing care by fathers or other relatives from care by strangers, this study legitimizes institutional care and eases the way for its expansion. Unfortunately, it has already expanded far more than most people realize. A mere three days after this study was released, the Census Bureau reported that more than half of all American children were enrolled in institutional daycare or other nonrelative care.

—*Scott P. Richert*

OBITER DICTA: The 1996 meeting of the John Randolph Club, which will address the topics of nationalism and the future of the American right, will be held on October 4-5 at the Crystal City Marriott in Arlington, Virginia. For those who are prompt enough to register before September 1, the fee is $225; after that date, it will be $250. Checks should be made out to the John Randolph Club and mailed to Burt Blumert, Center for Libertarian Studies, Crown Building, 875 Mahler Road, Suite 150, Burlingame, California, 94010.

To reserve a room at the Crystal City Marriott, call (800) 228-9290. For attendees of the JRC meeting, the Marriott offers a special fare: $85 a night, single or double occupancy.

The meeting will follow a special dinner on October 4 to commemorate the 20th anniversary of The Rockford Institute. For information about this event, please call (815) 964-5811 and ask for Sarah Trimble.

* * *

In our May issue, Professor Eugene Narrett recounted the efforts of Michael McLaughlin to get his daughter Julia into Boston Latin High School after she was denied admission because of a 35 percent minority quota. Now U.S. First District Judge Arthur Garrity has issued a contradictory proposal: that Julia should be admitted this fall because, somehow, "the merits of her case now appear stronger," and that the minority quota at Boston Latin and other schools in the city should be raised to 75 *percent* to accommodate Boston's new black and Hispanic majority. President Clinton's plan to "mend, not end affirmative action" seems right on course.

* * *

The following stores in New Jersey now sell *Chronicles*: Borders, 515 Route 73 South, Marlton; Borders, Garden State Plaza, Paramus; Barnes & Noble Superstore, 765 Route 17 South, Paramus; Barnes & Noble Superstore, 200 W. Route 70, Marlton; Barnes & Noble Superstore, Shortline Center, Paramus; Borders, Mid State Mall, East Brunswick; Mel Thompson, 45 Lubman Terrace, Secaucus; Sy Rosensweig, 46-B Sterling Street, Lakehurst; Garden State News, 461 Palisade Ave., Cliffside Park; Total Circulation Services, 83 Myer Street, Hackensack; Barnes & Noble Superstore, 2103 Highway 35, Holmdel.

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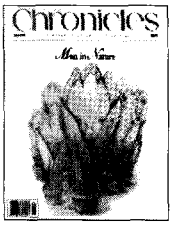

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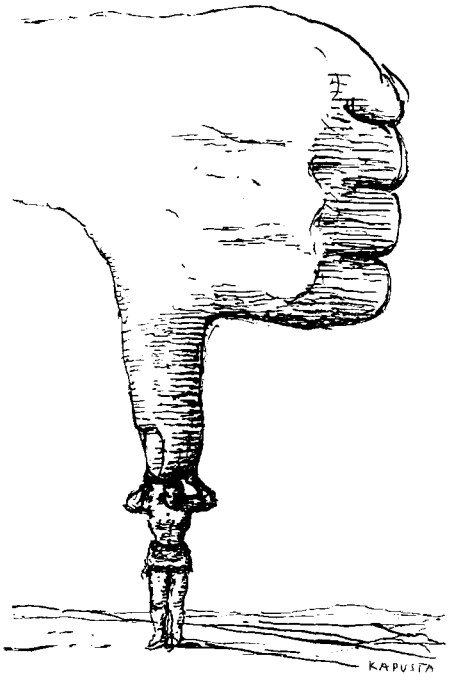

Treason Against the New Order

by Thomas Fleming

I was doing my best to mind my own business on a very busy Saturday. My wife was in England, and after nearly two weeks of playing mother, I was catching up on the laundry, shopping for the dinner I would have to prepare, and, in between trips to the store, I had to take my elder daughter to her orchestra lesson. Then there was that registered letter, which probably contained a $450 refund check I was expecting from a clinic that had scammed us on the insurance. It was tight, but I made it to the Post Office about 15 minutes before closing time, only to discover that the envelope contained not the check but a formal notification from the local "chief forester." My hedges were, apparently, above the three-foot limit that had to be observed within 40 feet of any intersection, and one of my neighbors had filed a complaint. As I drove home, I noted that at least one house at every intersection was in violation of the same rule, and I began to fantasize about a campaign of soft terror against the nosy neighbors and local officials who knew how to mind my business better than their own. I could probably file a dozen complaints a week and keep the chief forester working overtime for the rest of his officious little life.

My irritation did not pass that evening, even after drinking a pair of very dry double martinis with dinner and a bottle of generic Chianti that was more than good enough after the gin. I lay awake much of the night, trying to convince myself that the retaliation I was planning was not only childish, but would, in fact, violate my cardinal rule of not interfering in the lives of strangers. So what, if the mayor, the sheriff, and the chief forester himself were all in the pay of local contractors and Mafia dons? They had wives and children; they had private lives that I had no more right to disturb than if I were a telephone solicitor selling burial plots.

Eventually I slept, and when I awoke, it was to the sound of the ringing telephone. I dread the telephone and never answer it, if I can find a child to say I am not available. After five rings I picked up the receiver. The call was from a friend in London, wanting to know why I had not responded to his E-mail messages. I asked him what was so urgent that he had to get me out of bed. "Oh nothing, really," he answered. "It's just that The Hague Tribunal has decided to devote a special session to journalists. The charge is aiding and abetting the Bosnian genocide." Sunday was already turning out worse than Saturday. Knowing the answer in advance, I asked who was named in the indictment, and he mentioned the usual suspects: a French telejournalist, a New York newspaperman and one in Texas, a leftist columnist, and, last and least of all, me.

Ever the optimist, I tried to find a silver lining. Better a hate crimes trial in The Hague than a week of cutting down hedges in Rockford, which reminded me that I had to get to work on the bushes after breakfast. After cutting down a half-dozen shrubs, our yard looked like it had been hit by a tornado. I went inside and fixed up a big sign: "This devastation brought to you by neighbors who cannot mind their own business," before going up to my study to start work on my defense.

I wondered what good would it do to protest my innocence. I could say that all I had done was to tell the truth as I saw it. Even if I had made mistakes, they were honest mistakes. The simple truth is that I am innocent. Then I remembered Kafka's Joseph K., who said the same thing to his prosecutor. "But

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how do you know you're innocent, if you don't know what the charge is?" I retrieved the E-mail message sent from London and discovered that in substance, the indicted journalists were accused of writing propaganda that was part of the Bosnian Serbs' campaign to deprive the Muslims of their human rights. The style had changed from Kafka to Lewis Carroll. Here I was at the Mad Hatter's tea party, where grown men and women were keeping up a solemn pretense of sanity, while yet proclaiming openly their belief in human rights. Knowing that a frank statement of my opinion would be tantamount to a confession of guilt, I packed my suitcase and took the shuttle to O'Hare Airport. On the way to the bus, I posted the following memorandum.

A brief submitted in Case 042745 for defendant charged with crimes against humanity by the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia.

Let me begin, like Rousseau, by setting aside the facts: The honorable judges are probably aware that I have had virtually no contact with the government in Pale; never met either Mr. Karadzic or General Mladic; never received any support from their government, unless you count the barracks bed and can of spam provided by Colonel Gusic in Herzegovina.

Facts have never been an element in The Hague Tribunal's deliberations. All the parties to the Bosnian civil war have lied, and the worst liars have not been the so-called "Half-Turks," with their fantasies of reestablishing a fundamentalist corner of Ottoman rule. Their lies begin with themselves: every time a Bosnian Muslim looks in the mirror, his own blond hair and blue eyes tell him that to carry out the final solution of the Serbian problem, he will end up killing himself. Every day they spend in Mr. Izetbegovic's Islamic Magic Kingdom is punishment enough for the self-deluded Muslims who lie for the greater glory of Mahound.

For all their butcheries, the Half-Turks who are finally living out their dream are entitled to a chivalrous respect they do not accord to their Christian enemies. Even the Germans can be pardoned, like the kleptomaniac caught swiping discarded eight-track tapes, for their single-minded pursuit of empire in the Balkans. They are addicted to empire—of which they can never get enough—and like all addicts, Mr. Helmet Kohl has to lie to cover up the evidence of his bad habits.

But what can be said in defense of the U.S. State Department and its satellites (the so-called free press of the United States)? They dream neither of an ancient empire restored nor of a new empire created out of the ruins. To them belongs neither the courage of the Muslims nor the national honor of the Germans. If minds so blank can be said to dream, then Mr. Christopher and his colleagues dream of a world inhabited only by peoples as colorless and bloodless as themselves: a world without song, because songs recall old battles and ancient heroes; a world without faith, because men will die for either the Cross or the Crescent; a world without honor, because honorable men are not reasonable, and they will sacrifice even a comfortable income and a house with a two-car garage to vindicate their private honor and the honor of their people.

The New Order imagined by the internationalists is nothing more than their own petty bureaucracy puffed up to bursting like the mother frog who tried to impress her children that she was as large as a bull. Ivo Andric, in *The Bridge On the Drina*—a book that no one in NATO or UNPROFOR has read, because if they had, their stupidity would be inexcusable—portrays the arrival of the new imperial mind in Bosnia in the person of Emperor Franz Joseph's soldiers and officials who cannot leave anyone alone:

> The newcomers were never at peace; and they allowed no one else to live in peace. It seemed that they were resolved with their impalpable yet ever more noticeable web of laws, regulations and orders to embrace all forms of life, men, beasts and things, and to change and alter everything, both the outward appearance of the town and the customs and habits of men from the cradle to the grave. . . . Every task that they began seemed useless and even silly. They measured out the waste land, numbered the trees in the forest, inspected lavatories and drains, looked at the teeth of horses and cows, asked about the illnesses of the people, noted the number and types of fruit-trees and of different kinds of sheep and poultry. . . . [A] few months later, sometimes even a year later, when the whole thing had been completely forgotten by the people, the real sense of these measures which had seemed so senseless was suddenly revealed. The *mukhtars* of the individual quarters would be summoned to the *konak* (the administrative center) and told of a new regulation against forest felling, or of the fight against typhus, or the manner of sale of fruit and sweetmeats, or of permits for the movement of cattle. Every day a fresh regulation. [Undoubtedly they also prescribed the height limits on shrubs near intersections.] With each regulation men saw their individual liberties curtailed or their obligations increased.

Andric concluded by saying that the life of the towns and villages became "wider and fuller." I assume he was being ironic. Wider, perhaps, but not fuller, since the Bosnian Serbs and Turks had all they needed for a full life, which is not to say that there is not always room for improvement even in Eden, but order, regulation, control are the objects of bureaucracy, not improvement, *per se*. Order and control mean, in essence, subordinating your will to mine, replacing your identity with my identity, reducing the flesh and blood of your aspirations down to the aridity of paper and ink, statistics and regs, and all that cannot be analyzed is boiled away, all that cannot be regulated is suppressed, and this includes—along with honor and courage, love and loyalty, songs and legends—the truth.

Since the rules of the game do not allow the truth to be discussed, let us simply assume (as any good witch-hunter will) that I am an agent, conscious or otherwise, of the Serbs. In one sense, any principled man is the servant of his friends, and for good or ill, I have adopted the Serbs, as I have also adopted the Italians. We can never be entirely reasonable about our kin, even if they are adopted. If the President's wife were right, that there is no such thing as other people's children, then the only logical conclusion would be to treat our own kids with the same rational indifference we display toward the children of strangers. Fairness would dictate that I portion out the sum of my paternal love among the hundreds of millions of children on the planet, my own four included. My love, spread so thin, would have as much an effect as my income, if it were redistributed to the world's poor.

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Objectivity, impartiality, universality—these are three of the hallmarks of the liberal creed which tells us to regard ourselves and our friends as if we were an impartial spectator, as if we were making our judgments from behind a veil of ignorance. This indifference to the particularities of affection—the whiff of bitter almonds in the wine of liberalism we have been drinking for centuries—culminates in Thomas Nagel's demand that we take an off-world perspective on our own life and its obligations. Viewed from Mars, my life, the fate of my family, the happiness of my friends are a paltry affair compared with the sum total of human misery on the planet.

Even if I were silly enough to think that by devoting all my energies to the world's welfare I could do some good, I should still reject the premise. The impartial spectator turns out to be the judge handing out a death sentence, and the veil of ignorance is the blindfold they put on just before the officer shouts, "Ready, aim, fire!" Who says I should treat everyone the same? It cannot be God, because liberal philosophers either do not believe in Him or else, out of professional courtesy to their colleagues, they agree to "bracket" His existence as irrelevant. What if I say that blood and love are all that matter in this world? Will you send in the FBI, with a warrant drawn up by the philosophy departments of Harvard, Yale, and Berkeley, to arrest me for thought crimes? *N.B.*: This is just a joke and not a prophecy. Back in the 60's, I made the mistake of asking, "If women have rights, what's next—rights of children, rights of homosexuals, rights for animals?" You can't tell a joke anymore, no matter how fantastic, without it coming true.

No, I am not impartial toward my wife and children, whom I love and take care of, nor to my friends whom I honor and respect, nor to my fellow citizens whose politicians rob me of half my income every year in taxes which I pay as meekly as a lamb going to the slaughter. If I am not allowed to make distinctions between my country and anywhere else in the world, then I might as well hold onto the money. So, I admit it: I have made the Serbs my friends, and although I will not lie for them, my defense of their cause has not been entirely rational, any more than it is rational for a man to fight for his country.

So, if you like, I am an agent of the Serbs. This admission does not make me automatically a criminal. To find me guilty, it is not enough to prove that I have done something, if that something is not a crime. If I am going to be convicted of killing the Jabberwock with my vorpal blade, the prosecutors should have to produce the blade and at least describe the features of the dead Jabberwock. In my own defense, I think I have a right to demand to know just what these human rights are that I—the presumed beamish boy—and my Serbian paymasters have supposedly violated.

To speak truthfully, I have never understood this whole business of rights. There are, of course, specific rights guaranteed by a Constitution or a legal tradition, but those are "civil rights," which can be altered or abolished by statute or decree or judicial interpretation. The Constitution of the United States spells out a freedom of religion which Congress, i.e., the national government in its lawmaking capacity, may not infringe; and yet, the federal courts, acting as lawmakers, have forbidden American citizens even to pray in the buildings they have paid for with their own money. So there is obviously nothing sacrosanct or absolute about civil rights.

Human rights or natural rights are another matter. They are supposedly universal, built into the constitution of human nature and the universe, like the laws of mathematics and physics. If they are not—if they were, for example, simply the latest state of progressive thinking—then they could only serve as ideas or theories about how people ought to behave, not as an absolute standard of right and wrong, certainly not a faith to kill for, as we have killed so many already in the Balkans.

But who actually believes in absolute standards of right and wrong, much less in a universe infused by moral law? The shorthand answer to the first: *all* Christians; to the second: *some* Christians. All Christians believe that some things are absolutely prohibited to all people at all times, whatever custom or fashion may dictate: murder, theft, bearing false witness, adultery. But Christians part company on the second question. While many Catholics and Orthodox and some Protestants still adhere to the old concept of the logos, the second person of the Trinity that is accessible to all peoples throughout history, there are many sincere Christians who say that moral laws are simply divine commandments that make no more natural sense than the dietary laws of Jews, Muslims, and Mormons. There is no reason not to kill your father or tell the truth, any more than there is any reason not to eat pork or drink coffee.

For the sake of convenience, I shall call this position fundamentalism. From this fundamentalist perspective, there can be no human rights except those that have been explicitly declared by God. Unfortunately, even a cursory inspection of the Old Testament reveals a hair-raising series of murders and massacres apparently decreed by the Almighty himself. The worst war crimes of which the Serbs are accused are pretty small stuff compared with the treatment of the Sodomites who were evaporated simply for expressing their sexual diversity, or the Canaanites who were slaughtered as aliens in their own land.

But even if we agree with St. Thomas, that there is a natural law from which all human laws derive their legitimacy, we cannot make this conception the basis of an international law that is administered by anti-Christian lawyers for the benefit of non-Christian peoples. The difficulties of maintaining a natural law position in an anti-Christian world crop up daily. A few months ago my friend Ernest van den Haag got into a sparring match with Robert George and William C. Porth, Jr., in the pages of an American conservative magazine called *National Review*. The controversy over the right to die was obviously inspired by the homicides perpetrated by Dr. Jack Kevorkian, whose self-conceit feeds—like the very devil himself—on death. (If Kevorkian were literate, his business card would read: "Now more than ever seems it rich to die.") I hope I shall not too much trivialize the opposing arguments in saying that Professor van den Haag based the right to die on the classical liberal position that each of us has a property in our own person, while Professor George argued the natural law position for the sanctity of life. The debate was closed—as these things so often are at NR—by an *ex cathedra* editorial warning that Professor van den Haag's utilitarian pathway led to extermination camps. (I am sure this was a joke and should not be regarded as a reason for indicting the good professor.)

Actually, the reverse is probably true. Liberal rationalist states, while they may destroy the human spirit, do not typically demonize minorities or send them to the ovens. Even when they carpet-bomb civilians, they feel constrained first to lie about it and then to justify the massacre on humanitarian grounds ("By bringing the war to an earlier conclusion, we saved countless lives"). Liberal states, especially when they are putatively democratic, engage in the most preposterous lies, precisely because their legitimacy theoretically rests upon the

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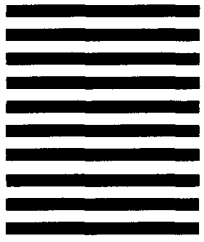

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consent of the governed, and it is never a good idea to let the marks realize the game is crooked or that there might be cleaner games in a kingdom or dictatorship on the other side of town.

The real argument is between an essentially Christian view of human life as a gift from the Creator and a liberal view in which there are only rational individuals making choices. While I entirely disagree with Professor van den Haag's philosophy, I fear he is all too right, that from his perspective, which is the perspective of the American regime, the only alternative to the individual's power of life and death over himself is to invest the state with that power. We already know how the modern state wields its *ius vitae necisque* from the encouragement given to infanticide and euthanasia. I can imagine no worse nightmare than to endow either a national or a world government with the ultimate power to "protect" a human right to life. On this point, American Christians are suffering from a self-inflicted blindness which makes them—Catholics and Protestants alike—a menace to what remains of a civilized social order.

Human rights, particularly the human right to life, make no sense outside the Christian tradition. Greek and Roman pagans loved their children as much as any Christian, but there were circumstances in which they felt morally justified in exposing them. Christianity is almost unique in seeing the human person as a divine gift to be treated with reverence. Please do not bring up the bizarre Hindu sects that regard all life as sacred, because if killing a cow (or a cockroach) is a crime like homicide, then human life is no more valuable than bovine existence. In a post-Christian (which is actually an anti-Christian) society, the moral language of the faith is appropriated by ruthless humanitarians and ambitious world-controllers who use it to deny justice to the victims of murder and rape, to rob the working classes of their income, which they spend on themselves and their own pet enthusiasms, and to inflict brutal wars and embargoes on peoples who are already suffering under regimes that have done a great deal worse than to deprive them of human rights.

If I am going to be tried on Christian charges, I demand to be given a jury of my Christian peers. But this Tribunal of yours, as is well known, was set up originally by Muslims and is now being run by a very un-Christian bureaucracy that is the permanent government of the United States. Try me, if you like, for treason against the New World Order, because I will not worship the emperor's hat or burn incense before his statues. Send me to fight with wild beasts in the amphitheater or, if you are capable of such brutality, force me to spend every evening watching reruns of made-for-TV movies on the LIFE channel so that I can learn sensitivity to women's issues. Give me a lobotomy (or send me to Disney World) to teach me how to be a good American, but do not play this post-Christian human rights game which is an insult to "the dignity of every human being" which in the new kinderchristian services we are asked to respect.

All I ask is to be persecuted openly as a Christian.

Defendant's brief was rejected as irrelevant and used to prove additional charge of contempt. Tried on 4 July 1996, he was sentenced in absentia to perform 20 years of labor at an AIDS hospice in multicultural Sarajevo. His house was razed as a violation of the international human right to safe driving, his children were declared wards of UNESCO, and his collection of seditious books was seized and burned. Defendant was last seen in Jordan, Montana, driving a vehicle described as "something between a large bathing machine and a very small second-class carriage." All national, state, and local police agencies have been instructed to assist in his apprehension. ◁

The Husbands of Feminists

by Frederick Turner

The husbands of feminists suffer in silence.
For them it's a simple and saintly delight
To carry on shoulders bescarred with the flogging
Their virgin, their queen of the night.

The husbands of feminists lie on the altar,
The last of the lovers, the cuckolds of time,
While the wise and the prudent poke fun at their folly,
Abandon the scene of the crime.

The husbands of feminists pass unremembered;
They are mystics of silence and eaters of shame.
The husbands of feminists burn on the anvil
Under the hammers of blame.

Those husbands have taken a great vow of service,
To atone for the sins of some six thousand years,
To pay off the penance of patient Griselda,
History's brutal arrears.

The husbands of feminists cannot be quoted:
Mutes, disincarnate the power of the word.
Inside their minds even thoughts are aborted,
Lest something perchance should be heard.

For these, the wounded, the stigmatized orthodox,
Doctrine itself were heresy now;
Under their habits are cinctures of torture,
Pain's paradisical glow.

Ah husbands, ah husbands, reduced to your hundreds,
Where billions once carried the yoke of the may,
How shall you answer the wrath of the goddess,
So few, on that terrible day?

O husbands of feminists, bound to the circle,
You are the mild lambs whose blood must be shed
To ransom the sins of the twenty-first century:
You are the wine and the bread.

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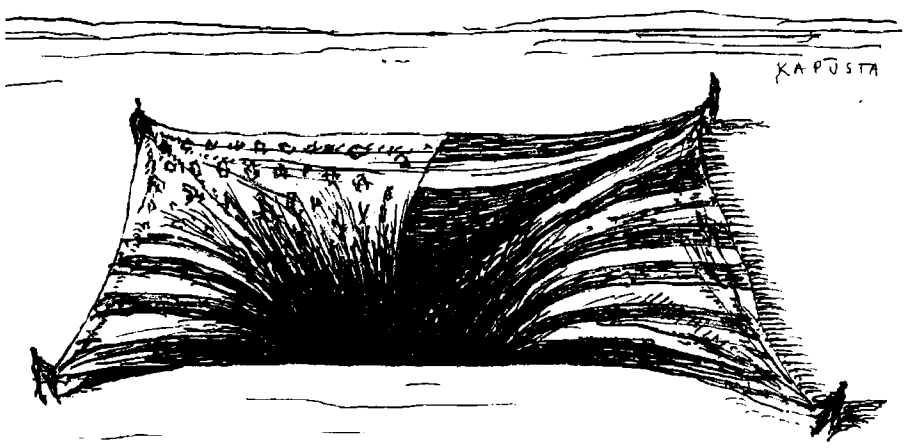
It's Sovereignty, Stupid!

by William R. Hawkins



On March 18, President Bill Clinton tested the waters on the foreign trade issue. These waters had been heated up by Republican contender Patrick Buchanan's attacks on "unfair trade deals," which had hurt Americans for the benefit of transnational corporations. Speaking in New Orleans, Clinton defended his "free trade" policies, quoting John F. Kennedy and citing the jobs created at the city's sprawling Nashville Avenue Wharf. What he did not mention was that in 1995, the United States suffered the largest merchandise trade deficit in its history, amounting to $175 billion—a sum larger than the federal budget deficit. He also did not note that many of the workers at the busy Gulf Coast port spent their time unloading products manufactured in foreign lands. These goods were then sent inland to throw other Americans out of their jobs, reducing the industrial capacity and national wealth of the United States.

Yet, as damaging as 20 years of trade deficits have been, they are only the result of a far more dangerous notion, one that strikes not just at the prosperity of America but at its very survival as an independent society. It is the loss of national sovereignty that prevents actions being taken to end the trade deficit and rebuild a high-wage economy: the surrender of the right of the American people, acting through their elected government, to control their destiny, which is being passed to supranational entities of the New World Order, such as the World Trade Organization (WTO).

When the WTO issued its first ruling in January, no one was surprised that it was directed against the United States. The WTO was established to curb the power and independence of major nations like the United States and to give smaller nations a vehicle for penetrating and exploiting the large and affluent American economy. A three-member WTO panel, composed of judges from Hong Kong, Finland, and New Zealand, declared EPA regulations governing the Clean Air Act's reformulated gasoline standards to be unfair to oil refiners in Venezuela. In response to the verdict, the Venezuelan Oil Minister Erwin Arrieta exclaimed, "I hope we can now take back the natural market of the U.S." Brazil, Norway, and the European Community were arrayed with Venezuela as "interested parties" in the dispute.

The Clinton administration did not immediately state it would appeal, but did eventually mount an effort. On April 29, a three-judge panel comprised of judges from the Philippines, Japan, and New Zealand rejected that appeal, which can only be made once, and on procedural grounds. A WTO decision can never be assailed on the grounds that the judges did not think through the issue properly; only that they did not follow the WTO's own rules. Thus, it is highly unlikely that a decision will *ever* be overturned.

This is also the problem with the creation of an American review commission, which Senator Robert Dole, then the Minority Leader, proposed as his price for endorsing WTO in 1994. Dole's suggested commission of retired federal judges would also be limited to reviewing cases the United States lost only in terms of whether the WTO followed its own rules, not on whether the country got a fair hearing or a tolerable outcome. Dole, of course, has made no effort to establish such a commission, even though as Majority Leader he could have brought this bill to the floor at any time and passed it. This is just as well. Such a commission could easily have become a vehicle for granting an explicit American stamp of approval for WTO procedures and thus for defusing popular or congressional reactions to decisions hostile to American interests.

Like the original case, the appeal was a first, a precedent-

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setting action which was used to legitimize the authority of the WTO. The WTO appeals panel agreed with the United States that the EPA regulation was made in pursuit of the legitimate goal of conservation, as defined under WTO rules. Yet, it still rejected the regulation itself, arguing that the EPA could have come up with a better way of implementing the same goal. Nothing could better demonstrate the micromanagement of American law that the WTO intends to pursue.

If allowed to become a precedent, this ruling could threaten a wide variety of other United States policies, including some with industrial base and national security implications. Every year, for example, the EC publishes a long list of American laws and regulations it feels are harmful to European exporters. Hence, its interest in this WTO ruling.

During the raucous debate over congressional implementation of the Uruguay Round of GATT, opponents concentrated on the creation of the WTO. It was argued that the WTO constituted a transfer of sovereign authority from Washington to Geneva because of its claimed right to declare any national law or regulation to be "GATT illegal" as an impediment to international trade. The WTO panel went far beyond the specifics of the gasoline case to assert its role as the authority that must grant its permission before any national initiative can be implemented. In the concluding section of the panel's decisions is the following claim: "Under the General Agreement, WTO Members were free to set their own environmental objectives, but they are bound to implement these objectives only by means consistent with its provisions." This is presumably applicable, as a general principle of WTO supremacy, to other areas of policy.

Populists and nationalists across the political spectrum, from Patrick Buchanan to Ralph Nader, assailed the creation of the WTO and the "globalist" philosophy behind it. On the right, the argument was that a WTO based on one nation, one vote, with no vetoes or Security Council, would put the United States at the mercy of foreign, in particular Third World, coalitions. On the left, there was fear that American health, labor, and environmental standards would be struck down as harmful to trade in foreign products that could not measure up. Both right- and left-wing critics opposed the notion that the United States could not use trade policies to give American-based industries and their workers an edge over foreign rivals. To the right, the loss of key industries signified a shift in the world balance of power. To the left, the loss of jobs and the downward pressure from wage competition with exploited Third World labor would undermine American living standards.

Proponents of the WTO, who ranged from idealistic Wilsonian liberals to jaded transnational businessmen, played a double game in the debate over how much legitimate authority the United States would retain. A prime example is law professor John H. Jackson of the University of Michigan. Jackson wrote a 1990 study for the Royal Institute of International Affairs on the alleged "defects" in GATT's pre-Uruguay structure, which became the basis for the WTO. In testimony presented to the U.S. Senate Committee on Foreign Relations (June 14, 1994) Jackson sought to allay fears by saying, "It is my opinion and judgement that the proposed new World Trade Organization, as part of the results of the Uruguay Round trade negotiations, poses virtually no danger or risk to the United States Government's ability to protect its sovereign capacity as an independent nation to take appropriate and necessary governmental actions on behalf of its citizens."

Yet, as Jackson wrote in the *Journal of World Trade Law* (Spring 1978), "Despite some occasional misguided or misinformed statements to the contrary, the GATT is a binding treaty obligation accepted by the nations which are Contracting Parties." Jackson also wrote, in a 1990 study for the influential Washington-based Institute for International Economics, that "despite cynical statements by members of Congress that GATT rules are 'irrelevant,' there are a number of proven instances in which congressional committees and their staff members have taken considerable trouble to tailor legislative proposals to minimize the risk of complaint to the GATT."

> This is how sovereignty will be lost; not swept away by conquering armies (at least, not initially), but given away by the petty minds of bureaucrats and barristers.

Jackson is known for analyzing what he calls the competing regimes of "Power-oriented" and "Rules-oriented" diplomacy. Here is how he had described the conflict in 1978:

> Power oriented techniques suggest a diplomat asserting, subtly or otherwise, the power of the nation he represents. In general, such a diplomat prefers negotiation as a method of settling matters, because he can bring to bear the power of his nation to win advantage in particular negotiations, whether the power be manifested as promised aid, movement of an aircraft carrier, trade concessions, exchange rate changes or the like. Needless to say, often large countries tend to favor this technique more than small countries; the latter being more inclined to institutionalized or "rule oriented" structures of international activity.

A 1992 study prepared for the World Bank, based explicitly on Jackson's work, argued that in a system based on negotiations between sovereign nations, "Powerful countries would grab the 'gains from trade' away from the less powerful. . . . GATT rules do not provide limits to national practice, but international sanction for it. Such rules are not part of the solution, they are part of the problem." However, Jackson had noted earlier that the main obstacle to reform was "the desire of governments to maintain enough freedom or 'sovereignty' to deal with the burdens of the responsibilities their citizens impose on them." These concerns "lead governments to be very cautious in further tying their hands through international bodies."

As should be the case. The United States should favor, and

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use, a system that allows full play to its considerable power as the world's largest economy to shape international trade to its benefit. But the Clinton administration surrendered this principle by warmly embracing the creation of the WTO, reviving a concept that had been moribund under the Reagan and Bush administrations. It was an abrogation by the Clinton administration of its duty to continue the active conduct of foreign policy on behalf of the nation in an area of increasing importance: international economics. That this embrace of irresponsibility is based on the philosophy of supranational authority promoted by academics like Jackson and institutions like the World Bank and GATT is demonstrated by U.S. Trade Representative Mickey Kantor, who constantly promotes to members of Congress and the media the ideal of "a strong rules-based trade system."

The consequences of such a system became evident last summer during the United States-Japanese confrontation over the auto and auto parts trade. Despite the great leverage possessed by American negotiators, Kantor backed down as the deadline approached to impose the long-promised sanctions on the import of Japanese luxury cars. Ryutaro Hashimoto, then head of Tokyo's infamous Ministry of International Trade and Industry, used the counterthreat of an appeal to the WTO to disarm Kantor. Hashimoto then used his diplomatic victory to bolster his bid to become Prime Minister.

The American retreat in the auto and auto parts dispute raised the question of whether Section 301 of the 1974 Trade Act, which has provided the muscle behind United States commercial diplomacy, is still a credible tool of policy. If the WTO is taken seriously, then Washington cannot use Section 301 or any other unilateral effort to pry open overseas markets or defend against foreign predators without first obtaining Geneva's permission. This, at best, places a new and complicated obstacle in the path of the United States and, at worst, cripples American efforts altogether.

China has made joining the WTO a top priority. This is not because China endorses the notion of "free trade." Beijing carefully manages its economic relations with the outside world. Most Favored Nation status already gives China easy access to the American market and generated for Beijing a trade surplus with the United States of $33.8 billion in manufactured goods in 1995. What China wants is WTO protection against any effort by the United States to use trade as leverage on Chinese foreign policy, arms sales, or human rights practices.

Prior to the WTO, there was no GATT mechanism to enforce dispute panel decisions. The contending parties were expected to negotiate solutions to their trade conflicts. Now, solutions are imposed by panels in a quasijudicial procedure and backed by the threat of trade sanctions. WTO "rules" (or rulings) have been substituted for the national "power" of diplomacy.

Americans were not prepared to accept such a usurpation of power by foreign officials. To defuse the vocal opposition to the WTO, which had mobilized substantial public support, the following reservations were added to the congressional implementing legislation reasserting American sovereignty—that is, the freedom of the United States to make its own laws for its own benefit through its own democratic process.

> Sec. 102 (a) Relationship of Agreements to United States Law—(1) United States Law to Prevail in Conflict—No provision of any of the Uruguay Round Agreements, nor the application of any such provision to any person or circumstance, that is inconsistent with any law of the United States shall have effect.
> (2) Construction—Nothing in this Act shall be construed—(A) to amend or modify any law of the United States. . . . (B) to limit any authority conferred under any law of the United States, including section 301 of the Trade Act of 1974.

This reservation is itself confrontational. Article XVI of the new GATT states, "No reservations may be made in respect to provisions of this Agreement." GATT Director-General Peter Sutherland argued during the debate that the assertion of reservations "amounts to a country choosing to be above the law whenever it is inconvenient to observe the law." He claimed that this option would not be open under the WTO. It will be up to American leaders, through precedent-setting actions, to prove otherwise.

Again, a Dole-style review commission will not suffice. Indeed, if composed of judges operating on pseudolegal principles, it would only make matters worse. It would further the notion that international economics should be the trivial stuff of a "rules-based" system, where lawyers can be trusted to do the work of statesmen. Only by relegating the global division of industry, wealth, and technology—and the balance of power that flows from it—to the level of tort litigation can national governments be persuaded that such fundamental issues are no longer their concern. This is how sovereignty will be lost; not swept away by conquering armies (at least, not initially), but given away by the petty minds of bureaucrats and barristers.

The USTR's office sought to stake out a stronger position in its *1995 Trade Policy Agenda and 1994 Annual Report* by stating, "A significant amount of domestic concern was raised throughout 1994 in regard to whether or not the WTO will force its members—particularly the United States—to compromise its sovereignty in order to meet certain multilateral trade obligations. Nothing in the WTO relinquishes U.S. sovereignty. . . . Only Congress and State legislatures can change U.S. laws." But in the wake of the WTO gasoline ruling, USTR officials started to talk about how easy it would be to comply.

According to syndicated columnist Finlay Lewis's interview with Deputy U.S. Trade Representative Jeffrey Lang, "Lang said the United States would not have to change its laws to comply with the ruling, only the regulation. . . . Lang argued that compliance could be achieved without compromising the objectives of the clean air program and probably without doing much damage to the interests of U.S. refiners." In other words, now that the WTO has said "jump," the USTR and the Clinton administration can only ask "how high?"

If the United States gives in and changes either its laws or its regulations just because the WTO says so, it is acting as if the WTO *does* possess sovereign authority. The issue can no longer be avoided or papered over. If the WTO gives the orders and American officials act as if they must be obeyed, that establishes a "chain of command" with the WTO's Geneva tribunals at the top. All the brave talk about maintaining American sovereignty goes right out the window. Isn't this what the critics warned against, and for very good reasons?

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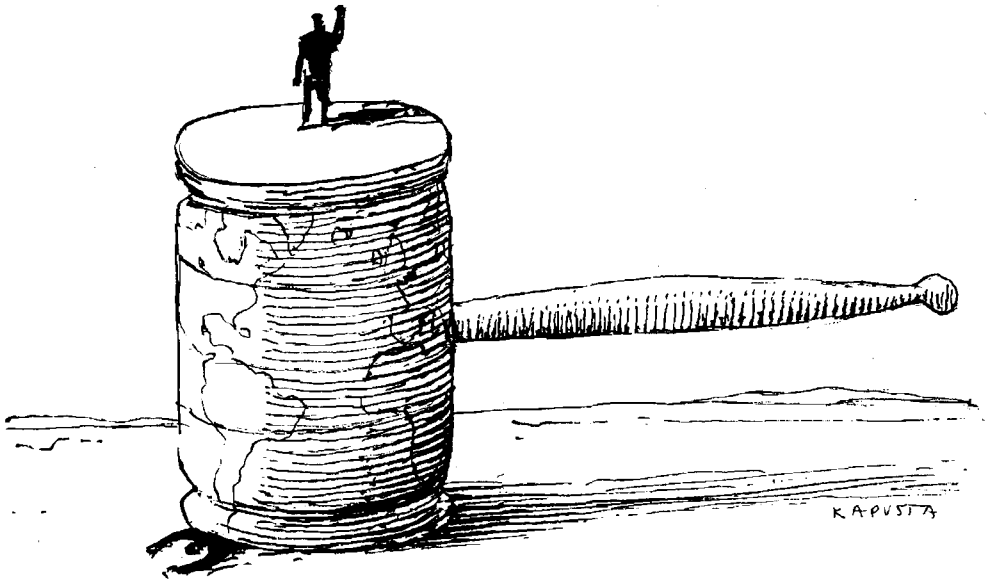
The Hague Tribunal

Bad Justice, Worse Politics

by Srdja Trifkovic



Aleksandr Solzhenitsyn once referred to the Cheka as "the only punitive organ in human history that combined in one set of hands investigation, arrest, interrogation, prosecution, trial, and execution of the verdict." He was probably mistaken about "human history," but his anger was just. What he chronicled was indefinite imprisonment without trial; investigations and indictments politically motivated, initiated, and controlled; arbitrary evidence gathering; trial by media and assumption of guilt.

Precisely these techniques, honed by the totalitarian scum of our century, have become the hallmark of the International Criminal Tribunal for the Former Yugoslavia (ICTFY), based in The Hague. After the decline of higher cynicism in the name of human progress, we now witness the ascent of higher cynicism in the name of human rights. It is the New World Order's posthumous tribute to Felix Dzerzhinsky.

ICTFY was established by the Security Council of the United Nations in 1993 on the basis of Chapter VII of the U.N. Charter (Resolution 827), with the "jurisdiction" for crimes committed after January 1, 1991. Why *only* "the former Yugoslavia," and why *only* the past five years? The strict answer is that the United States did not want to put its generals on trial for killing Vietnamese civilians, and did not want the embarrassment of charging the Croat mass murderers who have been untouched since 1945.

But the U.S. Ambassador at the United Nations, Madeleine Albright, supplies a more attractive, less honest answer. Speaking at the U.S. Holocaust Memorial Museum on April 12, 1994, she declared that "there is no more appropriate a place to discuss the War Crimes Tribunal for former Yugoslavia." In other words, the enormity of recent crimes in the Balkans supposedly sets them apart from all other wretched spots on our planet, and makes them comparable only to the Ultimate Horror of Auschwitz, Babi Yar, and Belsen.

According to Rudolph J. Rummel in the *Journal of Peace Research* (1994), in the five decades since the Nuremberg and Tokyo trials, there have been well over one hundred million fatalities due to war, genocide, democide, politicide, and mass murder. Pol Pot's Khmer Rouge killed two million of their compatriots—one third of Cambodia's population—in only four years (1975-78). This was but an offshoot of Mao's less known, more grandiose attempt at social engineering after 1949, which physically destroyed some 35 million men, women, and children. The Indonesian Army and its affiliates killed half a million people in 1965-66. The precise number of victims of India's partition is unknown, but exceeds one million. This figure was easily exceeded by Pakistan's brief and savage democide in today's Bangladesh in 1971. Dictatorships in Afghanistan, Angola, Albania, Rumania, Ethiopia, Iraq, North Korea, and Uganda have contributed their own hecatombs to the total. Even that old darling of Western liberals, Marshal Tito, after being brought to Belgrade by the Red Army in October 1944, dispatched hundreds of thousands of Yugoslav citizens; the victims were not only the Volksdeutsche of Vojvodina who did not survive deportations in 1945-47, but any real, potential, or imagined enemies of the regime.

While democracies murder relatively few of their own citizens (which is scant comfort to a child burned at Waco, or to Randy Weaver), they are less restrained in killing foreign civilians in declared or undeclared wars. Dresden and Hiroshima set the scene for indiscriminate bombings of Vietnamese and

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Iraqi cities. We know that the general strategic bombing policy of the Allies in 1942-45 was to terrorize urban centers. However, it may be years before we are told of the estimate for civilian deaths, in Hanoi in 1972, in Baghdad in 1991, or in the Bosnian Serb Republic in 1995; and there will be no trials of the culprits.

Compared to the horrors of Afro-Asian postcolonial killing fields, the war in the Balkans can be seen for what it is: a medium-sized local conflict. Before any facile comparisons of Yugoslavia to the Holocaust are accepted at face value, it is legitimate to ask how many have actually died. For President Clinton, addressing the nation on November 27, 1995, the easy answer was 250,000—and that in Bosnia alone. For his Defense Secretary, William Perry, two sets of figures seem to be equally valid. Testifying before the Senate Armed Services Committee on June 7, 1995, he said that in 1992 "there were, by our best estimate, about 130,000 civilian casualties. . . . In 1993, that number was reduced to about 12,000, and last year, 1994, the estimate was about 2,500." But four months later, on October 18, he told the House International Relations Committee that "the war in Bosnia has been going on for more than three-and-a-half years, with more than 200,000 people killed."

Was that latter figure based on anything but repetition? Counting bodies may be poor form ("even one death is one too many"), but it has to be done if we are not to abet the further exploitation of lies and distortions for political purposes. According to the only serious study published on the subject so far, by George Kenney ("All Told, How Many People Have Died in Bosnia," *New York Times Magazine*, April 23, 1995), former acting chief of the Yugoslav desk at the State Department, "Bosnia isn't the Holocaust or Rwanda; it's Lebanon." Kenney insists that the number of fatalities in Bosnia's war is between 25,000 and 60,000 on all sides.

The "Bosnian Holocaust" story was fabricated by the Muslim side as part of a wide-ranging and effective PR campaign. In December 1992, the Izetbegovic authorities first claimed that there were 128,444 dead on the "Bosnian" side (including Croats and "Serbs loyal to the Bosnian government"). According to Kenney, this figure was cooked by adding together the 17,466 confirmed dead until that time, and the 111,000 that the Muslims had already claimed as missing. He stresses that, at first, such high numbers were not accepted:

> But on June 28, 1993—as near as I can pin it down—the Bosnian Deputy Minister of Information, Senada Kreso, told journalists that 200,000 had died. Knowing her from her service as my translator and guide around Sarajevo, I believe that this was an outburst of naive zeal. Nevertheless, the major newspapers and wire services quickly began using these numbers, unsourced and unsupported. . . . An inert press simply never bothered to learn the origins of the numbers it reported.

Ever since, Bosnian-Muslim propagandists have peddled the story of the "Bosnian Holocaust" without being seriously challenged. In fact, after an initial bout of heavy fighting, from 1993 to mid-1995, there was a period of relative calm on most fronts in Bosnia, interrupted by brief outbursts in isolated localities (Gorazde, Bihac). Stories of mass murder and atrocities are yet to be substantiated with anything better than aerial photos of freshly plowed fields. The Red Cross has been able to confirm under 20,000 deaths on all sides. Analysts at the CIA and the State Department's Bureau of Intelligence and Research put fatalities in the tens of thousands. This is close to the view of British military intelligence experts: a year ago they estimated fatalities to be 50,000 to 60,000. Even if the as yet unknown number of Serbs killed by NATO air power and the combined Croat-Muslim offensive last September are included, the war in Bosnia is unlikely to have resulted in more than 70,000 deaths. Including Croatia/Krajina, the Yugoslav wars of 1991-95 have killed up to, but not more than, 100,000 people.

So why the war crimes Tribunal? Mrs. Albright's answer is that "the U.S. Government does not believe that because some war crimes may go unpunished, all must." Needless to say, any determination of which ones *should* be punished—if left to the United States government—becomes not a legal, but a political decision. Susan Woodward of the Brookings Institution says that the Tribunal was pushed largely by the United States for political reasons: "The accusations became a servant of American policy toward the conflict itself, which required a conspiracy of silence about parties which were not considered aggressors." The Muslims and Croats could thus get away with murder, literally and figuratively. The Serbs were to be pilloried, and the "Tribunal" was needed to give due legitimacy—and legality—to that decision.

The U.N. Genocide Convention could not, in any case, provide the basis for the Tribunal. It is an international treaty, approved by the General Assembly and ratified by member-states, which does not endow the U.N. with radical new powers. In fact, the Security Council acted illegally in setting up the Tribunal: it had *no authority* to do so. (Boutros-Ghali himself declared that "in asking the Secretary-General to consider this project, the Security Council has given itself an entirely new mandate.")

The formal basis invoked for the Tribunal, Chapter VII of the U.N. Charter, deals with "threats to the peace, breaches of the peace, and acts of aggression," and to meet them it authorizes the U.N. to deploy the armed forces of its member-states in peacekeeping operations. It would take a very flexible legal mind indeed to interpret this as *carte blanche* to investigate people, indict them, try them, find them guilty, and keep them in prison.

Invocation of Article 29 in the resolution establishing the Tribunal gives the game away: the Security Council may establish such subsidiary organs as it deems necessary for the performance of its functions. This amounts to an admission that the Tribunal is not an independent court of law but a "subsidiary organ" of its political masters. But while the Tribunal remains fundamentally subordinate to the Security Council, its statute provides it with primacy over national courts, including the authority to demand the surrender of the accused. This is in clear violation of the U.N. Charter, which insists that the U.N. may not usurp the sovereign rights of states.

A dangerous precedent has been created, and it would be shortsighted for the American public to overlook it. ICTFY may yet prove to be a step toward the globalist dream of a permanent International Criminal Tribunal. But the sponsors of ICTFY—shortsightedly, perhaps—do not envisage "international peace-keepers" patrolling America's racially or ethnically troubled areas; they do not contemplate Somalese or Saudi judges, sitting on such a Tribunal, demanding extradition of Americans accused of "hate crimes" against, say, the Nation of Islam.

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The Albrights of this world have a different scenario in mind. They do not seek to delegitimize war crimes per se, but to enhance their power to decide what is a war crime on the basis of current political calculations. Applied in practice, it means that when Bosnian Muslims are shelled, driven from their homes, or murdered, they are seething with indignation. When Serbs are driven from their homes in the Krajina or in Sarajevo in the hundreds of thousands, or are discovered with their throats cut, they pretend not to see. When Serbs take Srebrenica, it is "genocide." When Serbs are cleansed from Knin, Drvar, Grahovo or Petrovac, there is but silence, or an exultant cry that they had it coming.

To the Albrightesque mind there is no danger of the U.S. having to accept the jurisdiction of an International Criminal Tribunal created by the resolution of the U.N. Security Council, without congressional consent, without presidential signature, with primacy over the Constitution and over American courts. Such indignities are reserved for a Serbia, or a Rwanda. The intent is not to submit, but to control; the goal is not a new global superstate but a front for déjà-vu politics. As C. Douglas Lummis wrote in the *Nation* ("Time to Watch the Watchers," September 26, 1994):

> We can be confident that only the borders of middling and small countries will show a "new legal permeability." These are the same countries whose borders were always "permeable" throughout the age of colonialism and European colonial imperialism: the countries of the Third World and Eastern Europe. . . . As inspiration for a grassroots movement, human rights is a vital and precious weapon against the state, the corporation and other organized power. When it raises armies and jailers, however, the time has come to start watching the watchers.

The populist, universalist rhetoric used by the American foreign policy establishment to justify The Hague Tribunal, has been deployed *ad nauseam* to misrepresent "Bosnia" in general. Similar rhetoric may be found in Europe's leftist-leaning press (*The Guardian*, *Le Monde*) and among a small core of professional "intellectuals" (the most contemptible of whom are France's trio of laptop-bombardiers: Henri-Levy, Fienkelkraut, and Glucksman). But among the political class of Paris, London, or Rome, Clinton's and Albright's approach is basically a heresy, a deviation from the European norm, as it has been ever since a misreading of Montesquieu and the revolutionary ardor of a Tom Paine divided America's culture from its European roots.

Lofty rhetoric apart, America's policy in the Balkans has never been about the Balkans. President Wilson, while advocating the creation of Yugoslavia, did not know, or care, that the unification of Serbs, Croats, and Slovenes in 1918 was at least a half-century overdue: had it happened at the time of Bismarck's and Mazzini's unification projects, it could have worked. By the time of Versailles the process of separate cultural development and creation of separate national identities among the South Slavs had been completed.

With similar historical inattention, America's present leaders are deliberately ignoring the traumatic legacy of the massacre which Croat and Bosnian Muslim quislings systematically perpetrated against Serbs, Jews, and Gypsies in 1941-45. What has happened in Croatia and Bosnia in 1991-95 cannot be understood without taking account of the Ustase "policy of racial purification that went even beyond Nazi practices" (Encyclopedia Britannica). The murder of hundreds of thousands of Serbs during Pavelic's reign of terror is a *contemporary* political fact of life, just as the Holocaust is for the Jews.

But what happened in Washington? There are no *intrinsic* reasons for the anti-Serb policy of the administration. The Serbs had lived in one state since 1918, when "Yugoslavia" came into being. When the breakaway republics tried in 1991-92 to force over two million of them to become minorities, literally overnight, they reacted, and often overreacted. The issue was not that of aggression versus collective security; instead, the principle of territorial integrity of the former republics (Croatia, Bosnia) fatally clashed with the principle of self-determination of the people (the Serbs). There could have been no objection to the striving of Croats and Bosnian Muslims to create their own states. But equally there could have been no justification for forcing over two million Serbs west of the Drina River to be incorporated into those states.

This begs the fundamental question of the Bosnian war: If the collapse of Yugoslavia was due to the allegedly insurmountable contradictions between its ethnic groups, is not Bosnia even less a viable state? Are not the divergent interests among its ethnic groups even more strongly pronounced? The American advocates of a "multiethnic" Bosnia have never satisfactorily explained the paradox that their pleas are also the arguments for the reintegration of Yugoslavia, while their objections to such reintegration are also the arguments against Bosnia's viability.

What, then, is the motive for the United States to disregard all such questions—reasonable in themselves—and to insist on forcing the Serbs to submit to the rule of their enemies, or accept mass exodus, such as the cleansing of the Krajina last August, or Sarajevo today?

The motives of this anti-Serb stance in Washington are not rooted in the concern for the Muslims of Bosnia as such, or indeed any higher moral principle. United States policy has no basis in the law of nations, or in the notions of truth or justice. It is the end-result of the interaction of pressure groups within the American power structure. United States foreign policy in general, and "Bosnian" policy in particular, reflects those groups' concern for their particular interest and global policy objectives.

A Washington insider put it bluntly in the early days of the conflict:

> The simple facts are these: we are getting incredible pressure from the Saudis and others to help the Muslim cause in Bosnia. They remind us that the Islamic world provides us with all the oil we want at relatively low prices, that Islamic states have billions of petrodollars to invest in "friendly states" and offer a potential market of over one billion people for the goods and services of "friendly countries"; and finally, that the peace process between Israel and the Islamic world would go better if Israel's main friend was also a friend to Islamic countries. When you weigh these facts against what eight million Serbs can do for America's interests, it's clear what direction our policy is going to take.

There are two key strategic goals of American foreign policy today. One is that the United States retain its role as the perceived leader of the "international community." The other is

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that America remain the foremost economic power in the world. Thus the war in the Balkans evolved from a Yugoslav disaster and a European inconvenience into a major test of "U.S. leadership." This was made possible by a bogus consensus which passed for Europe's Balkan policy. This consensus, amplified in the media, limited the scope for meaningful debate. "Europe" was thus unable to resist the new thrust of Bosnian policy coming from Washington.

While Europe resorted to the lowest common denominator in lieu of coherent policy, a violently anti-Serb, agenda-driven form of *Realpolitik* dominated America's Bosnian policy. Instead of the neo-Wilsonian "moralist" approach—however misguided—egotistic unilateralism had grown rampant in Washington. Globalist phraseology should not mislead us. The intent is no longer to achieve a consensus; it is to force others to acquiesce to the American position. Just as Germany sought to paint its Maastricht *Diktat* on Croatia's recognition in December 1991 as an expression of the "European consensus," after 1993 Washington's *faits accomplis*—The Hague Tribunal included—were straightfacedly labeled by the administration "the will of the international community."

Just as the EU has lived with the consequences of its acquiescence to Herr Genscher's fist-banging in Maastricht, NATO has felt the brunt of the new American agenda in foreign policy. Most NATO partners were resentful but helpless when the United States resorted to covert action—with the support of Turkey and Germany—to smuggle arms into Croatia and Bosnia in violation of U.N. resolutions. America's refusal to support pre-1994 attempts to end the war (the EU Lisbon formula in 1992, the Vance-Owen and Owen-Stoltenberg plans in 1993), and its unilateral actions to directly aid the Muslim and Croat cause have frustrated the Europeans, but they were helpless.

The rest is history. Predictably, catching "war criminals" in Bosnia has now become another American obsession, a media-fed crusade that may yet make a durable peace impossible. The American-led operation was initially presented as a limited effort to implement the Dayton peace accord by creating a "zone of separation" between the factions and enforcing a cease-fire. But a full-fledged *political* campaign is under way in Washington to turn IFOR into an international gendarmerie, obliged to assist the Hague Tribunal in apprehending accused war criminals.

At the root of the problem is a deeply flawed model of the new Balkan order, designed in Washington and Bonn, which seeks to satisfy the aspirations of virtually all ethnic groups in former Yugoslavia—*except* those "eight million Serbs." This is a disastrous strategy for all concerned. Even if forced into submission now, the Serb nation shall have no stake in the ensuing order of things. This will cause imbalance and strife for years, or decades. It will entangle the United States in a Balkan quagmire, and guarantee a new war as soon as Clinton's and Albright's successors lose interest in underwriting the ill-gotten gains of America's new Balkan clients.

The little-known details of the way The Hague Tribunal operates go beyond the issues of legality and politics; they constitute a moral debacle of the highest order. Here are some of the facts. First, in October 1992, the U.N. Security Council passed Resolution 780, establishing a five-member commission of experts to investigate war crimes and other violations of international law in the former Yugoslavia. DePaul University law professor Mammoud Cherif Bassiouni was chosen to serve on the commission and to serve as its "rapporteur," to gather and analyze the evidence of war crimes. Bassiouni subsequently became the chairman of the commission, and its work provided the initial impetus to the advocates of The Hague Tribunal. The "War Crimes Project" at DePaul was the first data base to the Tribunal's prosecutor.

Professor Bassiouni is a devout Muslim. He has never sought to conceal his core values and prejudices in his books and articles, which include the following: *The Palestinians' Right of Self-Determination, Introduction to Islam, The Islamic Criminal Justice System, Jewish-Arab Relations, Criminal Procedure (Islamic Law)*, and *The Palestinian Intifada: A Record of Israeli Repression*.

Obviously, entrusting Professor Bassiouni with collecting evidence in a conflict between Muslims and non-Muslims was tantamount to putting Count Dracula in charge of a blood bank. It was a gesture of contempt for the Serbs and appeasement of oil-rich friends. As expected, he had consistently refused to accept evidence of Croat and Muslim crimes against the Serbs, while his staff have not hesitated to include third-hand hearsay and anonymous submissions from Muslim and Croat sources.

Bassiouni initiated and legitimized a selective approach to evidence gathering which has become habitual at The Hague, and which prompted David Binder of the *New York Times* to declare the entire War Crimes Tribunal unfair:

> Independent Serbian efforts to collect war crimes data and not only data involving Serbs, but other nationalities has been ignored. A large volume of data has been simply brushed aside. . . . I think it is a farce frankly, and it's made more of a farce by their naming political leaders as potential war criminals. . . . If you're going to start listing potential war criminals, you might add [German] Chancellor Kohl and, then Foreign Minister, Hans Dietrich Genscher, to the list of potential war criminals for what they did in pushing the recognition of Slovenia and Croatia, and thereby, spreading and deepening the conflict in the Balkans.

Bassiouni's "Final Report" unambiguously blamed the Serbs for aggression, premeditated ethnic cleansing, mass rapes, and all the rest. It was widely circulated in five languages under the U.N. cover. The outside world perceived it as an official U.N. document based on facts. It was an exercise in disinformation worthy of Goebbels. Few copies of the 3,000 page Annex were circulated, with primary evidence on which the findings were based. This Annex simply listed thousands of anti-Serb submissions, without attempting to evaluate their veracity. Bassiouni's *magnum opus* would have been laughed out of any real court, in the United States or anywhere else in the Western world—just as he himself would have been disqualified from serving on an American jury in any dispute involving a Muslim and a non-Muslim.

Second, he who pays the piper calls the tune. As Brecht put it, "You want justice, but do you want to pay for it, hm? When you go to a butcher you know you have to pay, but you people go to a judge as if you were off to a funeral supper."

In the first months of its existence, The Hague Tribunal received 93.4 percent of its funding from two Islamic countries, Pakistan and Malaysia. *Mirabile dictu*: both have been given the

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right to appoint judges to the panel. Both countries have also been among the staunchest supporters of the Muslim side in Bosnia ever since the beginning of the war, supplying it with weapons in violation of U.N. resolutions. The British journalist Nora Beloff points out that such composition of The Hague Tribunal precludes it from meeting Western standards for an independent judiciary:

> It was formed on the model for the Nuremberg Tribunal, with the Serbs cast in advance for the role played at Nuremberg by the Nazis. . . . Selected governments, representing different race and religions, were free to name their own judges. Boutros Boutros-Ghali, knowing that the Americans were primarily interested in incriminating the Serbs (and so commanding the "moral high ground"), was careful to exclude countries representing the Orthodox Christian tradition. These might have been sympathetic to the Serbs. Most of the judges came from countries where it is normal to decide the verdict in advance of the trial.

The panel also includes a Nigerian (where they execute poets for their writings), a Chinese (where nobody has been prosecuted for Tiananmen, let alone the horrors of the Mao era), and an Egyptian Muslim. With guardians like these, the New World justice needs no transgressors.

Third, the Bosnian Muslim government has stage-managed three well-publicized explosions in Sarajevo, in May 1992, February 1994, and August 1995. A total of 121 civilians were killed by these blasts. The first incident (the "breadqueue massacre") facilitated the imposition of punitive sanctions against Serbia and Montenegro. The second—the infamous Markale Market incident—led to the imposition of a heavy weapons exclusion zone around Sarajevo. The third provided the pretext for massive air raids against the Bosnian Serb Republic.

While each of these incidents was blamed on the Serbs, Western intelligence analysts and ballistic experts know the truth. So do U.N. investigators, but their findings have been kept secret on American insistence. The facts of each case have been extensively reported in Europe and Canada (*The Independent*, *The Toronto Star*, *The Times*) and in some American periodicals (the *Nation* and *Chronicles*). They have not been reported by major American networks, wire agencies, or daily newspapers. It would be highly embarrassing to the administration if they were, since each of those incidents provides ample grounds to take Izetbegovic & Co. on the first plane to The Hague. It is also striking that Dr. Karadzic and General Mladic have been accused of all manner of nastiness, but the inquisitors at The Hague have shirked from attributing even one of these highly publicized massacres to the Bosnian Serb leadership.

Fourth, the indictments of the Tribunal are uninhibitedly selective. A total of 46 Serbs have been accused of war crimes against Croats and Muslims, and seven Croats are indicted for crimes against Muslims. In the meantime, the Serbs have come to constitute the largest refugee population outside sub-Saharan Africa, and there are thousands of well-documented cases of atrocities against Serb civilians by Croat and Muslim military and civilian authorities.

The Tribunal's bias has been exposed in the indictment against Milan Martic, leader of the Krajina Serbs, for having ordered the bombing of Zagreb—which cost five lives. In their attacks against Western Slavonia in May and the Krajina in August 1995, Tudjman's troops had ethnically cleansed *250,000* Serbs and killed between *12,000* and *15,000* Serb civilians. Asked to explain the discrepancy between what happened in the Krajina and the indictment against Martic alone, Minna Schrag, formerly of the ICTY prosecutor's office, admitted that the decision was political:

> We at the ICTY Office of the Prosecutor recognized that the ICTY could not prosecute every violation of international law that occurred in the former Yugoslavia. . . . As for why some things are prosecuted and others are not, that is a question that I think arises in every prosecutor's office. It involves decisions about how to allocate scarce resources, priorities, purpose. And on a larger scale, why the international community decided to set up an ad hoc Tribunal for the former Yugoslavia, but not for several other places where there appear to have been serious violations of international law, is also, I suppose, explained by practical politics and many other factors.

The model for The Hague Tribunal is not Nuremberg 1946, but Moscow 1938. It is a deeply flawed institution, created for dishonest political ends. It is also a travesty of justice, as understood and practiced in the civilized world. Ted Galen Carpenter lucidly summarized the gut feeling of many Americans in a recent column:

> The Yugoslav war crimes trials have begun amid declarations of the international community's determination to bring perpetrators of atrocities to justice. Unfortunately, the proceedings themselves are an atrocity. . . . The Tribunal, like the Western governments that pressed for its creation, is blind to the reality that there are Serb victims in the Yugoslav war. The world does not need another example of moral posturing and double standards masquerading as a search for justice. It would be an act of mercy to end this farce as soon as possible.

The farce of Bosnian Serb General Djukic's arrest by the Muslims last February, his transfer to The Hague by IFOR, and his indictment by the Tribunal only *after* his refusal to testify against Mladic and Karadzic, is worthy of the judicial proceedings in a Banana Republic. Such seedy episodes should not be allowed to continue under the honorable Roman name of a "Tribunal." They are consistent only with the brave new world in which the United Nations is generating criminal law in chilly disregard of the dictum that people can be obligated to obey only those laws to which they have consented.

The Hague sends a clear message to the Serbs, that in today's world there can be crime without punishment, and punishment without crime, depending on the arbitrary will of "the international community" embodied in Messrs. Clinton, Perry, Albright, and Christopher. To the rest of the world the message is equally clear: keep quiet, toe the line, eat your McDonald's, listen to your Madonna, watch your *Terminator*, forget your history and culture and that Eurocentric trash about dignity and the hierarchy of values . . . and you'll be all right. For those who refuse to play along, there will be other "Tribunals" globally, and *Prozessen* locally. The bell, it does not toll just for the Serbs, it tolls for thee . . .

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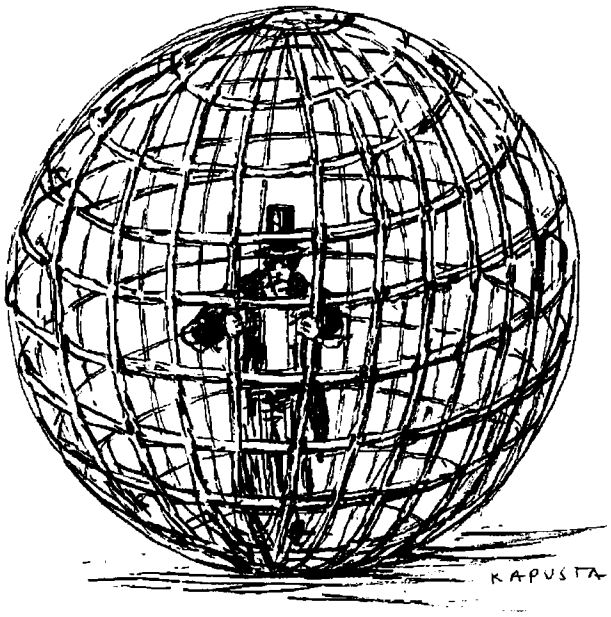
Human Rights and Self-Government

by Marshall DeRosa



In the United States, the federal system of government is undergoing profound changes that compel students of American politics to rethink traditional ideas about national identity. Questions such as: "What does it mean to be a citizen of the United States?" and "What are the duties and privileges of U.S. citizenship?" and "In what manner and to what extent is the locus of sovereignty to be found within the jurisdiction of these United States?" For economic, political, and constitutional developments that advanced national supremacy since the Philadelphia Convention in 1787 and the same influences that are now relegating national sovereignty to the same dustbin of history into which state sovereignty has been tossed, just as state sovereignty was engulfed by nationalism, so national sovereignty is being engulfed by a globalistic network of policymaking and implementation.

A case in point is human rights, or more specifically, a universal human rights agenda that scoffs at traditional American principles such as popular control over public policy and the constitutional federalism that was designed to safeguard popular control. The adjudicative incarnation of this type of case law has already taken embryonic form in the jurisprudence of national and state court opinions. If unchallenged, this incarnation in the next century will be walking upright with the vigor of youth, uncontainable by the cradle-like checks and balances of America's remnant constitutional federalism.

The universal human rights agenda is not limited to the sorts of rights protected in the United States and state constitutions. Rather they have within their scope policies that necessitate extensive social engineering on a global scale, including redistributive policies. Several U.N. documents provide American jurists with the requisite raw materials to incorporate internationally generated human rights into national and state case law, as a review of the United Nations Charter, the United Nations Declaration of Universal Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights makes clear.

The preamble to the U.N. charter appears to be innocuous—"We the people of the United Nations determined . . . "—but it can be used to consolidate sovereignty into an extended global community of individuals, in contradistinction to a collection of sovereign communities represented by their respective national governments. Chief Justice John Marshall, in the case that established national supremacy over the states, deduced from the "We the People" of the U.S. Constitution that the national "government proceeds directly from the people" and is "ordained and established in the name of the people" (see *McCulloch* v. *Maryland*, 1819). This vision of government "proceeding directly from the people" is requisite to the U.N. implementation of universal human rights. In conjunction with Article 55 of its charter, the U.N. has its own general welfare mandate, which states that it "shall promote (a) higher standards of living, full employment, and conditions of economic and social progress and development; (b) solutions of international economic, social, health, and related problems; and international cultural and economic cooperation; and (c) universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion." Thus, the groundwork for transnationally based rights has been established.

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The preamble to the 1948 U.N. Universal Declaration of Human Rights is more specific. It is applicable to "all members of the human family . . . the aspiration of the common people" and "the peoples of the United Nations." The significance of a United Nations that is the representative assembly not of nations but of the "human family" is that it can reign supreme over national standards that deviate from acceptable universal norms. From a juridical perspective, the supremacy of universal human rights standards over nation-based rights could be rationalized on the grounds that nation-states have been integrated through these U.N. documents into the "human family." This theoretical integration was advanced in 1976 through the United Nations' "international bill of human rights," comprising the International Covenant on Economic, Social, and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), and the Optional Protocol. These agreements supplement the "moral force" of the 1948 declaration with "legal obligations" as components of the customary law of nations and, regarding the ICCPR and optional protocol, through senate ratification in 1992.

ICESCR delineates fundamental rights that member states must respect, including: the right of all peoples to self-determination (Article 1); the "equal right of men and women to the enjoyment of all economic, social, and cultural rights (Article 2); the right to work and the right to freely choose or accept the work one does (Article 6); the right to favorable working conditions, fair wages, leisure, and paid holidays (Article 7); the right of everyone to form a trade union, the right of trade unions to form national federations, the right of national federations to form or join international trade-union organizations, the right to strike (Article 8), the right of everyone to social security and social insurance (Article 9); the right of everyone to an adequate standard of living and the fundamental right to be free from hunger (Article 11); the right of everyone to the "enjoyment of the highest attainable standard of physical and mental health" (Article 12); and "the right of everyone to education" (Article 13).

ICCPR more directly subsumes national and state identities into that of the "human family." This document proclaims that "the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world." For the United States, sovereignty is shifted away from the popular control of citizens within the respective states and to the United Nations. When universally recognized rights have been violated, the nation-states are responsible for providing an effective remedy, but the fact that a remedy is an inherent right of the claimant, domestic law notwithstanding, is a significant development. Moreover, the claimant need not be a citizen of the nation-state against which the claim is filed. Article 2 of ICCPR stipulates that:

> Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Coupling Article 2 with Article 25, the legal distinction between citizen and noncitizen is minimal, because with the exception of being able to participate in the political process, all the privileges of the former are extended to the latter. And the door to citizenship must be open to the noncitizen, "without unreasonable restrictions." Article 25 stipulates that every citizen shall have the right and the opportunity, "without any of the distinctions mentioned in Article 2 and without unreasonable restrictions,"

> (a) To take part in the conduct of public affairs, directly or through freely chosen representatives; (b) To vote and be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; (c) To have access on general terms of equality, to public service in his country.

To remove any ambiguity that citizens of a country may enjoy rights and privileges denied to noncitizens within that country but nevertheless "citizens of the 'human family,'" Article 26 of the ICCPR stipulates:

> All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Consider whether a U.S. District court judge would have any difficulty finding Article 2, section 1, of the U.S. Constitution—which stipulates that no person except a natural born person can be President—repugnant to Articles 2 and 25 of the ICCPR.

Following similar rules of procedure—excepting the closed meetings—nation-states that accede to the Optional Protocol to the ICCPR are open to claims by "individuals subject to its jurisdiction who claim to be victims of human rights violations" (Article 1). In the absence of the Optional Protocol, an individual was dependent on another nation to file a claim on his behalf. For example, a resident of the United States seeking protection against the government for human rights violations would have to obtain the assistance of a second country to file a complaint against the United States. But under the Optional Protocol the individual may directly file his claim before the Human Rights Committee (see Part IV of the Optional Protocol). This is a major departure from traditional international law, which governs relations between nations, not individuals. But that traditional rule was premised upon the relevance of sovereign nation-states, a relevance that is giving way to the global human family, with the United Nations serving as its agent.

Several points need to be emphasized. First, the guarantees against discrimination include public and private, the governmental and nongovernmental. Second, the word "persons," to which these fundamental rights are extended, means members of the human family, and not necessarily or exclusively the residents of particular countries. And third, the American federal system of state-reserved powers are negated by ICESCR, ICCPR, and the latter's Optional Protocol, theoretically and technically, as is evidenced by Articles 28, 50, and 10, respectively, which stipulate that "The provisions of the present

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Covenant shall extend to all parts of federal States without any limitations or exceptions."

It was the clear intent of the drafters of the ICCPR and the Optional Protocol to ensure injunctive relief against human rights violations through domestic courts first and foremost, leaving open the option of international remedies if domestic legal systems were to fail. In 1985, this intent was formalized by the U.N. General Assembly, when it adopted the Basic Principles on the Independence of the Judiciary, thereby stipulating that

> Whereas the International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights both guarantee the exercise of those rights . . . Whereas frequently there still exists a gap between the vision underlying those principles and the actual situation, Whereas the organization and administration of justice in every country should be inspired by those principles, and efforts should be undertaken to translate them fully into reality, Whereas rules concerning the exercise of judicial office should aim at enabling judges to act in accordance with those principles, Whereas judges are charged with the ultimate decision over life, freedoms, rights, duties and property of citizens . . .

Although for the time being they may be coincidentally compatible, it is not only possible, but highly probable, that as the "gap between the vision underlying those principles and the actual situation" closes, the remaining remnants of popular control over American law will be gradually displaced by U.N.-sanctioned rights. The displacement will be subtle, but effective, and it will have a significant impact on the capacity, and indeed the right, to be self-governing. Secretary-General of the U.N. Boutros Boutros-Ghali sees the heightened role of nationally based judiciaries as not only as essential, but an inevitable part of the "historical synthesis resulting from a long historical process." For "to move from identifying inequality to rebelling against injustice is only possible in the context of a universal affirmation of the idea of human rights. Ultimately, it is this idea which allows us to move from ethical to legal considerations, and to impose value judgments and juridical constraints on human activity."

It may at first appear farfetched to link the idealistic language of the United Nations to American public policy, but the jurisprudential groundwork has already been set. The first significant precedent legitimizing supranational supremacy was a 1920 test case, *Missouri* v. *Holland*. At issue was the constitutionality of the 1916 treaty between the United States and Great Britain and of the Migratory Bird Treaty Act of 1918, which executed the terms of the treaty. The state of Missouri maintained that the treaty and the statute were repugnant to rights reserved to the states by the 10th Amendment. The primary legal issue was: Can a treaty validate an otherwise unconstitutional congressional statute? For the Supreme Court, Justice Holmes provided an emphatic yes. He maintained that in those instances when the national interests are at stake, and in those matters that require national action, the power to secure those interests and execute the necessary action must reside somewhere. Because the states are incompetent to secure national interests individually, the power must be conferred upon the national government, and not necessarily by the Constitution, but by the Supreme Court. He wrote:

> The case before us must be considered in the light of our whole experience, and not merely in that of what was said a hundred years ago. The treaty in question does not contravene any prohibitory words to be found in the Constitution. The only question is whether it is forbidden by some invisible radiation from the general terms of the 10th Amendment. We must consider what this country has become in deciding what that amendment has reserved.

These few lines represent a paradigm shift in American jurisprudence that shakes the foundation of American federalism. The tenets of that jurisprudence are that statutory and fundamental laws are organic in nature, not static; that the meaning of statutory and fundamental laws may change as circumstances change, a type of legal environmental determinism; that the 10th Amendment is subject to a juridical sliding scale, whereby the reserved powers of the states are circumstantially contracted and those of the national government are expanded; and that the U.S. Supreme Court is empowered to keep the organism, i.e., the U.S. Constitution, healthy in its ever-changing environment. According to Justice Holmes, the demarcation between reserved and unreserved state powers is arbitrary, or, in other words, political. Thus, the sovereignty of the states over their purely internal affairs is not contingent upon the rule of law as expounded in the United States and state constitutions, but upon the rule of political expediency, especially when "a national interest of very nearly the first magnitude is involved," as presumably was the case in protecting the migration of Canadian wild birds.

The logic of *Missouri* v. *Holland* was expanded in U.S. v. *Curtiss-Wright* (1936), when the court outlined differences between the powers of the national government in respect to internal and external affairs. According to the Court, the differences are "fundamental" and the constitutional limitations are applicable only in respect to internal affairs. At issue was the constitutionality of the congressional delegation of law-making powers to the President. If the delegation falls within the category of internal affairs, it would be constitutionally invalid, repugnant to the constitutional separation of powers. However, if it falls within the category of external affairs, the delegation of law-making powers is not open to constitutional challenge. Grounding the court's opinion not in the "provisions of the Constitution, but in the law of nations," Justice Sutherland maintained that "the investment of the federal government with the powers of external sovereignty did not depend upon the affirmative grants of the Constitution." The powers of external sovereignty passed from the Crown, that is King George III, to the government of the United States, and then on to the President of the United States. Drawing on a twisted interpretation of the last paragraph of the Declaration of Independence, Sutherland concluded that the states never were free or independent. To make the United States completely sovereign, Justice Sutherland read into this last paragraph of the Declaration principles that are clearly inconsistent with the language and history of the document.

But this was precisely the point: the United States was not designed to be completely sovereign; nor was it designed to confer King George-like powers on the President of the United States. Nevertheless, *Missouri* v. *Holland* and U.S. v. *Curtiss-Wright* constitutionally sanction the overthrow of the state-based federal system of government. One year after *Curtiss-*

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Wright, the Court went the next logical step and freed the President from dependency on the Senate. In *U.S.* v. *Belmont* (1937), the Court elevated executive agreements to the same constitutional Article VI status as treaties.

There are three avenues of influence over which U.N.-based rights may be incorporated into American constitutional law. First, the provisions may be deemed to be self-executing. A self-executing treaty is one in which the terms of the treaty are binding upon national and state courts without requiring ancillary congressional legislative action. Second, if the provisions are not self-executing, the U.S. Congress may statutorily implement legislation that provides for their implementation. Whether self-executing or statutorily implemented, both types of implementation fall under the supremacy clause of Article VI of the U.S. Constitution. And third, the stipulated rights may incrementally become part of the American juridical mindset, thereby finding their way into the American legal culture. But regardless of the means of incorporation, the end result is the same: the incorporation of these United Nations-sanctioned universal human rights would have a profound impact on the legal culture of the United States, whereby, in the words of one advocate, international law would be converted into world law.

One should not be deceived into believing that internationally generated human rights will augment the "unalienable Rights . . . of Life, Liberty, and the Pursuit of Happiness" by limiting state and national policies. This transnational jurisprudence will be the antithesis of such Jeffersonian ideals and will determine who gets what, when, and how in the emerging New World Order. From the language and rhetorical context of these documents, it is quite clear that what passes for a universal human right will inevitably be measured by the standards of global equality and redistribution, which is tantamount to conceding the fruits of the Cold War stalemate to egalitarian ideologues. Secretary-General of the U.N., Boutros Boutros-Ghali, acknowledged that the universal human rights agenda is a "fundamental dialectical conflict between the universal [the global human family] and the particular [the traditional nation-state]." From the perspective of the United Nations, "human rights, by definition, are the ultimate norm of politics [and] in their very expression, reflect a power relationship." The universal human rights movement is part of a "historical synthesis" through which a "single human community" will democratically procure the rights to a healthy environment, peace, food, security, ownership of the common heritage of mankind, and development. "The human person is the central subject of development," and this "imposes on States . . . at the national level, the duty to ensure access to basic resources, education, health services, food, housing, employment and the fair distribution of income."

Although American commitments to universal human rights treaties appear to be harmless, these commitments pose a significant threat to the American sovereignty and the constitutional rule of law, premised upon popular control. The displacement of popular control with transnational elitism will be subtle, but effective. More specifically, it is clear that the New World Order is at odds with the American constitutional scheme of republican government, which entails the fundamental right to be self-governing for ourselves and our posterity. The universal human rights agenda is nothing short of sacrificing freedom for the utopian speculations about which James Madison warned.

Reviving the Bricker Amendments of the 1950's will not suffice. Neither Congress, the Chief Executive, nor the states are reliable checks against the global leviathan. As the examples of 1776 and 1861 make clear, if liberty is to be preserved, the leviathan must be destroyed and the locus of sovereignty restored to its constitutional moorings. In the words of M.E. Bradford, we have reached the point of a reactionary imperative.

Epitaph for an Unfashionable Poet

by Katherine McAlpine

Future biographers take note: his life
won't make any best-seller lists. One wife
was all he had and never, to our knowledge,
liked to sneak out with leather boys or college
girls. He kept his private life quite private,
was generous with friends, did not arrive at
poetry readings plastered and unkempt.
He never made a suicide attempt
or suffered bouts of existential pain.
His rhymes were funny, sly, and fiercely sane—
which brought small recognition, no awards,
lush grants or honorary mortarboards.
Yet he continued, cheerful, undeterred,
to skewer sacred cows and scare the herd.
So let's hear no regrets on his behalf;
in heaven, he's still having the last laugh.

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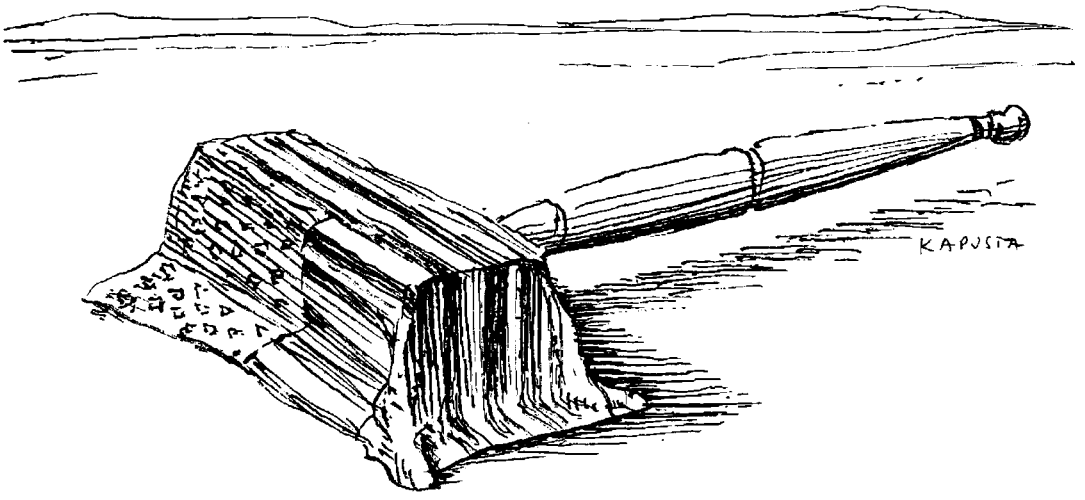
Suicide and States' Rights

by Bill Weber



In early March, the Ninth Circuit Court of Appeals went exploring in the empty spaces beyond the text of the 14th Amendment and discovered a constitutionally protected right to suicide. Judge Stephen Reinhardt, writing for an 8-3 majority in *Compassion in Dying* v. *Washington*, went on to conclude that a Washington State law forbidding assisted suicide unconstitutionally interfered with this new right. Four weeks later the Second Circuit, in *Quill* v. *Vacco*, struck down an identical New York statute, this time on equal protection grounds. The court thought it irrational for New York to allow the terminally ill to order themselves disconnected from life support without also allowing them to kill themselves with a doctor-prescribed drug overdose. Just as the Supreme Court did with the abortion question in *Roe* v. *Wade*, the Second and Ninth Circuits did with the question of physician-assisted suicide: they declared that the states may not address the issue beyond mere regulation of the killing.

The nation is currently engaged in a vigorous debate over the issue of assisted suicide. If the polls are to be trusted, a majority of our citizens believe that doctors should be allowed to kill terminally ill patients who request this "service." Yet 44 states, the District of Columbia, and two U.S. territories currently prohibit or condemn assisted suicide of all kinds, physician or otherwise. For citizens in the Second and Ninth Circuits—nearly half the population of the United States—this debate has been declared irrelevant. Whatever your beliefs concerning physician-assisted suicide, such judicial usurpation of state power cannot be tolerated, and those who wish to have the debate concluded in the same forum where it has been argued for the past several centuries—our state legislatures—can take heart. The Supreme Court is expected to review the decisions next term, and, if it adheres to the spirit of its precedents, the decisions are sure to be short-lived.

To understand the jurisprudential rootlets of these decisions, it is necessary to refer first to the Supreme Court's last abortion decision, *Planned Parenthood of Southeastern Pennsylvania* v. *Casey* (1992). In *Casey*, the Court reviewed a Pennsylvania statute that placed several procedural hurdles in the path of a woman seeking to abort. In a fragmented opinion, the Court upheld all of the requirements of the Pennsylvania statute save the requirement for spousal notification and, in a desperate effort to uphold the abortion right without calling it fundamental, invented a new constitutional standard for evaluating abortion statutes.

According to the Court's traditional rules in the area of extraconstitutional rights, calling abortion a fundamental right—as *Roe* had done—would have prevented the states from limiting abortion on demand at all during the first trimester. Calling it nonfundamental would have explicitly overruled *Roe* and allowed the states to ban the practice completely. From this tension emerged the new standard for abortion cases: states may regulate up to the point where a federal judge decides that the burden on the right to abort has become undue. Since *Casey*, the Court has never again applied the new standard, and its lack of vitality is so pronounced that most lower federal courts have ignored it entirely, even in abortion cases. Enter Judge Stephen Reinhardt and the Ninth Circuit.

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Judge Reinhardt is perhaps the most liberal judge on the federal bench. In a recent front-page story in the *Wall Street Journal*, Judge Alex Kozinski, a fellow Ninth Circuit judge and a powerful force in the federal judiciary, gave Judge Reinhardt the dubious honor of being "probably the best lawyer we have on the court. . . . He actually knows how to work the precedent, and he works it looking for cracks and seams that he can exploit." In *Compassion in Dying*, he stretched this talent well past the breaking point. Misusing precedent and ignoring established doctrines, Reinhardt somehow managed to discover a new constitutional right growing on the anemic stem of the *Casey* decision. Yet he remains unabashed at this flim-flam. "I think this may be my best ever," he says of the opinion.

Starting from the horrifying premise that federal judges "must strive to resist the natural judicial impulse to limit our vision to that which can plainly be observed on the face of the [Constitution]," Reinhardt proceeded to pronounce that Washington State was behaving unconstitutionally when it forbade doctors from prescribing lethal drug overdoses to the terminally ill. Aside from the fact that Reinhardt himself has never once had an impulse to "limit his vision" during his 16 years on the bench, the assertion that judges should feel free to treat the Constitution as a prospector treats his claim is simply wrong. In fact, the Supreme Court recently pointed out that "the doctrine of judicial self-restraint requires [the federal courts] to exercise the utmost care whenever [they] are asked to break new ground" in the area of rights not explicitly listed in the Constitution. Ignoring this straight-to-the-point admonition, Judge Reinhardt unpacked his shovel.

Reinhardt recognized that he had to establish two propositions to keep his excavation from caving in: first, that the 14th Amendment recognizes a liberty interest in suicide; second, that any such interest is fundamental enough to overcome a state's interest in the preservation of life. The Supreme Court has stated quite forcefully in case after case that a liberty interest is not fundamental unless it is "a principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental." As Justice Scalia has observed, the liberty to commit suicide has no such roots: "American law has always accorded the State the power to prevent, by force if necessary, suicide—including suicide by refusing to take appropriate measures necessary to preserve one's life." Although Reinhardt made a halfhearted effort to justify his newly discovered right on historical grounds (including a hilarious passage in which he cites Sir Thomas More as a big supporter of assisted suicide, apparently unaware that *Utopia* was a satire), he had to know that the Supreme Court would almost certainly refuse to declare a fundamental right to suicide.

So Reinhardt found himself in a box. He understood that calling the right fundamental would be futile. The other option—calling the right nonfundamental—would have resulted in a clear and easy victory for Washington. There was nowhere to go but to the peculiar jurisprudence of the *Casey* decision.

Casey presented Reinhardt with problems of its own. Foremost, of course, was that the Supreme Court has never applied *Casey* outside of the abortion context. Reinhardt himself recognized this problem in a 1993 law school address, when he admitted that the *Casey* decision grew out of political pressures on the Court rather than out of a fundamental desire to redirect 14th Amendment jurisprudence. To cope with this problem, Reinhardt executed a rather ingenious reinterpretation of recent Supreme Court precedent in an attempt to show that the Court has been moving toward a less rigid analysis of 14th Amendment liberty interests. In essence, Reinhardt argued that *Casey* represented the Supreme Court's abandonment of its traditional fundamental/nonfundamental division of liberty interests in favor of a continuum where a liberty interest and the state's interest could slide up and down a scale depending on their relative weight in any given situation. In *Casey*, the scale happened to alight on the undue burden standard. In another case, the scale would stop elsewhere.

Reinhardt's position is unsupportable. *Casey* was not a decision designed to realign 14th Amendment jurisprudence. It was, as Reinhardt himself recognized in 1993, *sui generis*—a singular opinion growing out of singular pressures on the Court. *Casey* was a decision based primarily on the power of *stare decisis*, the principle of Anglo-American law that dictates that prior case law should not be repudiated absent a compelling justification. "We conclude," said the plurality, "that the basic decision in *Roe* was based on a constitutional analysis which we cannot now repudiate . . . [because] the immediate question is not the soundness of *Roe*'s resolution of the issue, but the precedential force that must be accorded its holding."

In other words, *Casey* was an exercise in the jurisprudence of cowardice: the Court was afraid to overrule *Roe*, but also afraid to endorse it. It chose, therefore, to hide behind the thin veil of precedent. Had an earlier Court shown such a lack of moral courage, "separate but equal" would still be the law of the land. This weak little opinion hardly provides a ringing endorsement for Reinhardt's contention that it represents a fundamental realignment of constitutional interpretation. Constitutional gadfly Laurence Tribe has said that he finds "much to admire" in Reinhardt's interpretation of *Casey*. Perhaps he was reading the opinion for its comic potential.

Beyond the misuse of precedent, one must also examine the effect on the country if Reinhardt's "analysis" is correct. If the sliding-scale approach became the law, littering ordinances, speeding laws, and stop-sign violations could all generate federal cases. On the sliding scale, every act of the state that limits my freedom would be subject to challenge. The adoption of this approach would be an invitation for the federal courts to dig into the laws on the books of every state in the country on a case-by-case basis. Our state legislatures would operate at the whim of the federal judiciary. This may be an outcome that Reinhardt and his brethren on the Imperial Judiciary would relish, but it is an outcome that the Supreme Court most certainly will not endorse.

The Second Circuit decision took a more conservative approach in a Souteresque sort of way. Judge Roger J. Miner, writing for two of the three judges on the panel, began by explicitly repudiating Judge Reinhardt's due process analysis on the grounds that a federal court "is most vulnerable and comes nearest to illegitimacy when it deals with judge-made constitutional law having little or no cognizable roots in the language or design of the Constitution." But this moment of lucidity did not stop him from reaching the same result as Judge Reinhardt, albeit by walking a different path through the dark forest of the 14th Amendment. Where Reinhardt strode boldly along the smoldering trail cut by the abortion cases like some demented camp-follower of General Sherman, Judge Miner crept quietly into a dusty corner of the Equal Protection Clause to find support for his position. His conclusions are equally unsupportable.

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At its heart, the Equal Protection Clause of the 14th Amendment demands that states act reasonably when they want to treat one group of their citizens differently from another. Thus, though it is fine for the state to allow only nonfelons to purchase guns, the Equal Protection Clause would not allow a state to prevent the sale of firearms to women. Outside of the relatively narrow areas of fundamental rights and specially protected groups, a state classification will survive an Equal Protection challenge if it is "rationally related to a legitimate state purpose." This is a lax standard that allows a state to justify itself on almost any grounds, even those invented after the fact. This extraordinary level of deference exists because the Supreme Court believes that the political process itself provides adequate protection in areas not involving fundamental rights. Judge Miner and his Second Circuit panel, however, were not so confident in our ability to govern ourselves.

Judge Miner began by recognizing that the distinction drawn by the New York statute between the terminally ill on life support and the terminally ill not on life support implicated no fundamental right or class deserving of special protection. Yet he nonetheless invalidated the statute. In a textbook example of the unprincipled use of raw judicial power, Judge Miner concluded that he could use the most relaxed standard in all of constitutional law to strike down a statute endorsed by the people of New York, citing as his only support a tiny line of cases where the Supreme Court has used the Equal Protection Clause to protect the mentally retarded and the children of illegal aliens. Any applicability of these cases to the facts presented in *Quill* depends for its vitality on an analogy between the historic plight of the mentally retarded and the children of illegal aliens on the one hand, and the terminally ill who wish to commit suicide on the other. Such an analogy is obviously impossible to draw, and Judge Miner did not even bother to try. He simply cited a few cases as examples of a rational relationship review that struck down state laws, and then proceeded to do the same with the New York assisted suicide statute.

And what of the interest of the people of New York? The state contended that its "principal interest is in preserving the life of all its citizens at all times and under all conditions." Instead of addressing this interest, Judge Miner ridiculed it: "What business is it of the state to require the continuation of agony when the result is imminent and inevitable? What concern prompts the state to interfere with a mentally competent patient's right to define [his] own conception of existence, of meaning, of the universe, and of the mystery of human life . . . ?" But Judge Miner should not have been so quick to dismiss the state's interest in the preservation of life, especially given the Supreme Court's resounding declaration on this point in its only "right to die" case, *Cruzan*: a state may choose to rely "on its interest in the protection and preservation of human life, and there can be no gainsaying this interest. . . . The majority of States in the country have laws imposing criminal penalties on one who assists another to commit suicide. We do not think that the State is required to remain neutral in the face of an informed and voluntary decision by a physically able adult to starve to death."

So, from the thin gruel of *Casey*, Judge Reinhardt applied all of his talent in "working the precedent" and cooked up an imaginary four-course meal. Meanwhile, on the other side of the country, Judge Miner concocted his own version of the slop. When the Supreme Court gets a taste of this meal, however, it should be able to discern its real ingredients: a bit of broth and a lot of hard work by some talented confidence men. The right to decide whether we want our doctors to act as our executioners in the waning days of our lives is part of that residue of power left with the states, and there it should remain.

Delivery

by Katherine McAlpine

A doe, entrapped in the electric fence
she'd wandered into, panicked and went crazed,
injuring herself fatally. The man dispatched
to end her suffering did it with one clean shot
but noticed that within her heavy belly,
life still moved. Quickly he took his knife,
cut her warm body open, pulled from it
two barely breathing fawns. He pressed his mouth
to each in turn, laboring with his breath,
his human breath, to urge them into life.
One of them died but one of them was saved.
Holding the small survivor in his arms,
covered with blood, his rough face streaked with tears,
he roared in a wild ecstasy of triumph
to those who'd watched, standing in silent awe:
"Congratulate me, people—I'm a father!"

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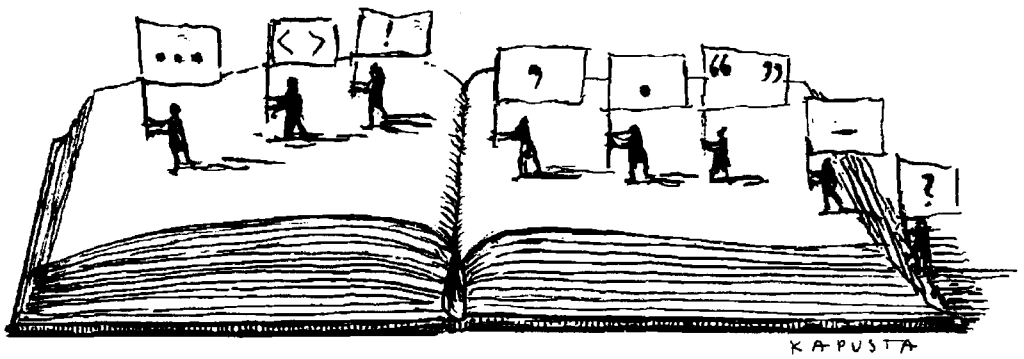
We Are Going, Gentlemen

by R.S. Gwynn

"Poetry is the language of the state of crisis."
—Stéphane Mallarmé



Community, Religion & Literature
by Cleanth Brooks
Columbia: University of Missouri Press; 334 pp., $34.95

The Fable of the Southern Writer
by Lewis P. Simpson
Baton Rouge: Louisiana State University Press; 249 pp., $24.95

◆

When Cleanth Brooks died at 87 in 1994, a great era of American literary criticism ended. Brooks had been one of John Crowe Ransom's prize students at Vanderbilt, and when Ransom issued the call for a method of criticism of poetry that would not fall prey to the errors of earlier generations, Brooks and Robert Penn Warren, another of Ransom's protégés, responded with *Understanding Poetry*, perhaps the most influential literary textbook ever written. Ransom, Brooks, and Warren thus became forever associated with the New Criticism, a movement which took, not very accurately, its name from Ransom's 1941 collection of essays evaluating important recent critics (neither Brooks nor Warren was among them).

In a note to the instructor in the first edition of *Understanding Poetry*, Brooks sought to avoid some of the common "temptations" that resulted in study of substitutes for a poem instead of the poem itself. These included "paraphrase of logical and narrative content," "study of biographical and historical materials," and "inspirational and didactic interpretation." Instead, Brooks and Warren proposed "close reading" of the poem, focusing on it as a consciously crafted aesthetic object that was more or less complete in itself. Brooks greatly admired John Donne's "The Canonization," and its comparison of a successful poem to a "well wrought urn" leant him the title of his best-known book. Whatever a poem was, it was certainly not to be read as a mere adjunct to personal crises in the poet's life or as a footnote to historical events.

But over the years, as the methods of Brooks and Warren became standardized within English departments, the New Criticism established a hegemony and hardened into an orthodoxy with a dogma as rigid as that of any earlier school. One learned, from the zealous followers of Brooks and Warren, that *all* biographical and historical information was to be excluded from interpretation, as well as any statements made by the poet about what he or she was trying to do (the "intentional fallacy") or any mention of how the poem succeeded in stimulating the reader's emotional and intellectual responses (the "affective fallacy"). In its most extreme form, which came to dominate American English departments in the late 1950's, academic New Criticism suffered from cultural and historical myopia, concentrating on the ambiguities of poetic minutiae to the exclusion of the larger contexts of life and times in which poetry is created. When the reaction against the New Criticism surfaced in the mid-1960's, it was swift and merciless, replacing close reading with a bewildering array of critical theories which seemed to focus on almost anything *but* the text. To his considerable bemusement, the gentle Professor Brooks found himself and his followers demonized as a band of elitist snobs interested only in maintaining the status quo of an exclusive canon largely comprising white male authors.

It is sad that a critic as fundamentally decent as Brooks would have to end his career defending himself against such charges, but several of the essays in *Community, Religion & Literature* do just that. Brooks patiently explains, for what must have been the umpteenth time, that omitting biographical notes from

R.S. Gwynn is the editor of The Advocates of Poetry: American Poet-Critics of the Modern Era, *forthcoming from the University of Arkansas Press.*

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Understanding Poetry was dictated not by a belief in the irrelevance of an author's life but simply by considerations of space. He seems genuinely amazed that his younger colleague at Yale, Harold Bloom, could have based a whole critical method on an Oedipal "anxiety of influence." The typical poet, Brooks notes, "is not so much concerned to slay his literary father as to commit acts of mayhem on his brother poets." He allows J. Hillis Miller, one of the chief recent claimants to the throne of theory, to be hoist with the petard of his own ludicrous deconstruction of Wordsworth's "A Slumber Did My Spirit Steal." Similarly, he notes of Stanley Fish's *Is There a Text in This Class?*—the ur-text of contemporary reader-response theory—that the varying student responses that led Fish to conclude that literary texts are essentially indeterminate only demonstrate how in a classroom "a strong-willed and magnetic individual can engineer such changes almost to order." The solid common sense that Brooks evidences throughout his writings will be sorely missed.

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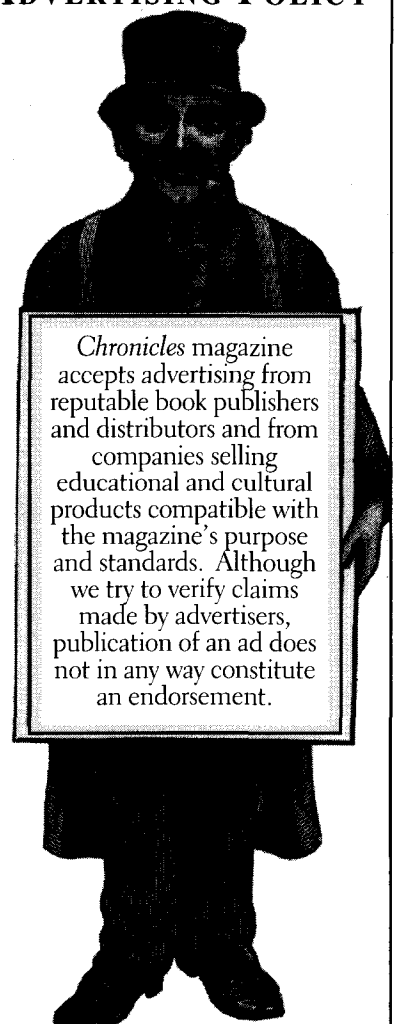

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When Brooks left Louisiana State University for Yale, he also left behind the *Southern Review*, which he had cofounded and edited with Warren. That periodical, which provided much of the impetus for the Southern literary renaissance, languished for over 20 years before it was revived and restored to eminence in the 1960's by Donald Stanford and Lewis P. Simpson. Simpson's *The Fable of the Southern Writer* concentrates on a series of representative figures that begins with Jefferson and John Randolph and extends to Faulkner, Tate, Warren, and the overlooked Kentucky novelist Elizabeth Madox Roberts, whom he subjects to a brilliant analysis based on what he calls her "effort to transcend the constraint the modern subjectivity of history imposes on the imagination of the literary artist." Like her contemporary Faulkner, Roberts, arriving at the universal with first steps planted in her native soil, "discovered what we are like: we believe in the idea but not in the fact; . . . in the idea of community but not in community; . . . in the idea of love but not in the act of love."

Simpson's criticism displays a range that is markedly different from that of Brooks. As his title indicates, he is concerned only with Southerners, and, as his methods quickly display, he prefers the role of cultural historian to that of the literary critic. Simpson is heir to the tradition established by V.L. Parrington in *Main Currents in American Thought*, a book that held tremendous influence in American studies when he was attending college, for his chapters are largely devoted to the representative men of letters whose works have both molded and reflected Southern history. Still, I wonder if "cultural historiographer" would not be a more accurate way of describing Simpson. What he says of Elizabeth Madox Roberts might apply to himself: he is more interested in the idea of history than in history itself. For example, he establishes Robert Penn Warren as the paradigm of a type of Southern sensibility-of-exile he calls "the loneliness artist," analyzing Warren's long residence outside the South as a reflection of the "lifelong preoccupation with the tension between ideality and reality in American history," a tension that would eventually fuel the plot of *All the King's Men*. Like Warren himself, Simpson repeatedly returns to "the problem of the freedom and responsibility of the individual in a world in which the individual is conceived as at once the maker and the product of history."

The regional concerns of a critic like Simpson have been sadly undervalued in recent times. Place as an important force in shaping a writer's identity now attracts only a tiny portion of the interest bestowed on the holy trinity of *raceclassandgender*. But for the Southern writer, place has always meant less a real sense of locale than the kind of idealized Eden that Thomas Wolfe apostrophized as "O lost!" It is appropriate that Simpson closes his book with an epilogue titled "A Personal Fable: Living with Indians," recounting his childhood in the northwest Texas community of Jacksboro and relating a good deal of fascinating family history along the way. Speaking of a local historian, one Ida Huckaby, the author of *Ninety-Four Years in Jack County, 1854-1948*, Simpson observes the tragic knowledge that every historian learns, "that in working to reconstruct out of memories and documents the wholeness of the past, one must come to suspect that the motive is illusory." As he says of the hometown he has described in loving detail, "The image of Jacksboro that comes to me is of a place that no longer exists save in remote semblance. It returns because this town, however imaginary, is still the center of the world for me." Simpson turns 80 this year, and one hopes that the valedictory tone of this concluding piece is premature.

In the fall of 1992, I attended a celebration honoring the centennial of the *Sewanee Review*. Brooks and Simpson were both there, along with Andrew Lytle, Shelby Foote, Helen Norris, Monroe Spears, Louis Rubin, and others who had contributed to that magazine's estimable history and to Southern letters in general. In the autumn of the year on that lovely Tennessee mountaintop, it was not possible for me to look at these elder statesmen, still defending in some inscrutable way the inalienable autonomy of the South, without recalling "An Ancient to Ancients," Hardy's elegy for his own generation that turns on the melancholy refrain *We are going, gentlemen*. A great generation is going, and our world diminishes as it does.

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Against the Invaders

by Paul Gottfried

The Case Against Immigration
by Roy Beck
New York: W.W. Norton;
287 pp., $24.00

◆

Roy Beck's brief against immigration abounds in useful but also familiar statistics: e.g., since the Immigration Act of 1965, 30 million immigrants, mostly from Third World countries, have entered the United States; at least half of our births in the last 30 years are traceable to these immigrants; without them, the current population of the United States would be about 210 million, and within two generations, if present trends continue, our population density may be that of the Indian subcontinent, with even less cultural cohesion. Beck analyzes the damaging effect Third World immigration has on the wages of American workers, and he shows how the combination of cheap imported foreign labor and growing social service costs for immigrants (over 350,000 of whom arrive illegally each year) have hurt the most vulnerable segment of the American working population.

Although Beck discusses the cultural implications of what Wayne Lutton and John Tanton call the "immigration invasion," he focuses mostly on its material costs. Ecologically and financially, he finds immigration to be a ruinous social experiment, except for the advantages accruing to business interests, public administrators, and social workers. In this sense, it might be compared to late 19th-century imperialism, by which small but powerful advocate groups prevailed against the interests of the majority of Europeans.

Unlike imperialists, however, immigration advocates cannot appeal effectively to cultural and national pride since, if successful, their own project may culminate in the destruction of a fixed Western (not to mention American) identity. Beck insists that invasion from the Third World will bring harm not only to America's workers, but, above all, to our natural environment. The present urban sprawl and depletion of resources will be nothing, Beck notes, in comparison with the ecological effect of another 200 million people, predominantly of Third World origin.

Beck refutes several platitudes featured in the *Wall Street Journal* and spread by television talking heads and the two national parties. He maintains that immigration since 1965 has not helped our economy to expand more than it might have without this demographic explosion, and he underlines the falsity of the parallel drawn between the high rates of immigration to the United States between 1880 and 1924 and immigration since 1965. The present immigration is numerically far higher than during the Great Wave, and it comes at a time when the country does not need additional labor, particularly of the kind our own unemployed lower class can provide. This new unprecedented immigration, observes Beck, has also contributed to escalating crime rates since the mid-60's. It has brought us foreign and often organized crime at a time of social dislocation, and it has aggravated violent tendencies among American minorities who have lost job opportunities at the bottom of the income ladder to immigrant competitors.

Two observations regarding Beck's argument come readily to mind. The first is that it is not the first presentation of its kind. It draws openly from an expanding body of research that has been available for some time. Beck's associates at the *Social Contract*, contributors to *Chronicles*, and authors like Dan Stein, Samuel Francis, and Peter Brimelow have been publicizing the case against expanded immigration for at least a decade. But until Brimelow's *Alien Nation*, no major house would publish a book stating this case, though the vast majority of Americans favor significant reductions in, or a suspension of, immigration. Brimelow and Beck, who have found prestige publishers, both take special care to neutralize potential critics: Brimelow by speaking kindly of his opponents, and Beck by championing the environment, underclass blacks, and unskilled workers as the prime victims of immigration. The second is that Beck may have surrendered too much analytically by pursuing his strategy of critical respectability. Are we to believe that "aggressive civil rights programs to benefit the descendants of slavery have been watered down, co-opted, and undermined because of the unanticipated volume of new immigration"? And are we to accept Beck's judgment that, if not for an equivocating President and a congressional cabal, the majority of Americans would have their way on immigration? One can easily understand why Beck makes such statements, given his interest in creating an inclusive coalition and also his desire to minimize obstacles to the success of his goals. He is trying to anticipate the charge of insensitivity, one that is habitually raised against critics of our immigration policy.

Unfortunately, the advocates of this policy, as Beck occasionally hints, are the political class, public administrators, the two major parties which front for the administrative state, the official right and left, corporate managers represented by the U.S. Chamber of Commerce and the National Association of Manufacturers, the sensitivity police who command the media and national press, and their mentally feeble counterparts in the academy. The same coalition of forces can be seen favoring immigration expansion elsewhere; in Europe, Canada, and Australia, for example, the immigration expansionists support hate-speech laws and the criminalization of comments deemed detrimental to the self-esteem of ethnic minorities. In France, Germany, and Austria, anti-immigration forces have prevailed to the extent that they have compelled the governments of their countries to reduce immigration and to restrict citizenship to the children of those who are already citizens. But nowhere have the opponents of immigration been able to dismantle the sensitizing and social service mechanisms created to minister to the immigration waves unleashed by the political class. These have remained in place, together with a spreading thicket of laws against what the French euphemistically call "crimes of opinion." While Beck has written knowledgeably and eloquently about a major social problem, his work would have gained in depth had he ad-

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dressed the problem of nonaccountable government. If he had followed this course, it is doubtful, however, that Norton would have published his book. And there are occasions when publicizing half a case is better than nothing at all.

Paul Gottfried is a professor of humanities at Elizabethtown College in Pennsylvania.

The Eye of the Beholder

by Philip Jenkins

A Force Upon the Plain: The American Militia Movement and the Politics of Hate
by Kenneth S. Stern
New York: Simon and Schuster; 303 pp., $24.00

◆

A Force Upon the Plain is the most comprehensive of the outpouring of books inspired by the Oklahoma City bombing, based as it is upon an elaborately researched examination of the radical paramilitary right. However, Kenneth Stern is by no means a newcomer cashing in on post-Oklahoma jitters. As a long-established researcher for the American Jewish Committee, he can legitimately claim to have issued a public forewarning that something very bad was likely to happen on April 19, 1995, the second anniversary of Waco. As will be known to anyone who has ever delved into the more bizarre reaches of the political fringe, the best resources are generally to be found in the archives of Jewish groups like the AJC and the Anti-Defamation League, and it is not surprising that Stern's book is so amply documented. It is at its best when describing the neo-Nazi loons inspired by William Pierce's book *The Turner Diaries* (though even Stern seems not to know the almost equally influential text *Hunter*, also by Pierce, which portrays terrorist activism by lone "berserkers"). As such, Stern's book is likely to become a standard reference work, and to this extent it can be recommended.

Even so, there is much that is troubling about Stern's approach, and the underlying ideological assumptions of the enterprise. For example, the biographical note asserts that the author is "an expert on hate and hate groups." Expert, certainly, but what exactly is "hate," beyond a generic psychological phenomenon? Presumably a communist practices hate when he excoriates class injustice, just as a radical environmentalist mobilizes hate against the corporations and agencies which despoil the environment. The Nation of Islam both practices and preaches hate of the worst kind when its whole political theology is based on hastening the day when white devils will no longer pollute the earth they have corrupted and enslaved. In some sense, hate is integral to the rhetoric of any militant or extremist movement, yet today the term is only applied selectively to the politics of the radical right.

Stern evinces little concern for definition, hate being an easily recognizable thing. In the context of this book, the term applies to a remarkably wide range of groups, mostly united by their extreme suspicion of the purported benevolence of government; in addition to overt Nazis, it includes "White Supremacists," though most of these are interested less in dominating rival races than in achieving the largest degree of geographical separation. "White Nationalist," while more accurate, is presumably unacceptable for not being sufficiently pejorative: it is too objective by half. The "hate" category also comprehends Identity Christians, marked by a theory of racial separation and bizarre biological views; in fact, they are near clones of the Nation of Islam, though the latter are conspicuous here by their virtual absence.

A great many people qualify for inclusion in this book for expressing skepticism of the federal battle honors of Waco and Ruby Ridge; for their concern regarding the surrender of American sovereignty to supranational entities like the United Nations; for their unhappiness with federal land management policies; or for holding views about taxation and representation similar to those expressed forcefully at Lexington on April 19, 1775. And "hate" emphatically includes the ideas of any group militantly opposed to any further extension of gun control. After all, "some minimal regulation of guns makes sense to the majority of Americans," and the quite sweeping laws already in place fall far short of the "quite minimal" standards desired by Stern. If you have doubts about the logic or constitutionality of this position, then you are already well on the road to "hate." For Stern, no acceptable legal or moral justification permits an individual or group to conclude that in American law and tradition, the right of self-government is based upon the personal liberties of an armed people.

White supremacists, gun-control opponents, survivalists, theorists of religious or racial apocalypse, conspiracy advocates, radical-right critics of government, even some UFO believers: for Stern, all these groups are thrown together with Nazi extremists like those of the Order, and of isolated militants like those who carried out the attack in Oklahoma City. All are "Patriots," racists, and anti-Semites, and thereby part of the "politics of hate." If "hate" is so abominable, and so richly deserving of exclusion from public debate, then we are left with a remarkably narrow spectrum of appropriate political expression. In fact, it runs the whole gamut of ideology, from A to about H.

Even if we accept Stern's expansive definition of "hate," there is little justification for thinking it unprecedented in its contemporary manifestation, and still less for concluding that we are witnessing an "epidemic of hate." Militia and vigilante activity in modern America is sparse compared to that in the 19th century, which embroiled many cities and states in something like civil war (in fairness, Stern takes some account of this bloody heritage). In the present century, paramilitary upsurges have tended to occur in the two or three nervous years following the displacement of a conservative Republican administration by a liberal Democratic President, as witness the shirt groups and Bund activity of the mid-1930's, the Birchers and Minutemen of the 1960's, and, today, fatigued men in the woods of Michigan and Oregon.

In stark contrast, contemporary race relations are radically different from what they have been in the past, and active racial hatred today is at an absolute historical low. This might seem a curious statement given the "surging epidemic" of hate crime evidenced by official statistics over the last decade. But these figures indicate only altered sensibilities, while the mere fact of collection demonstrates a state of mind quite un-

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thinkable a few decades ago. If shouting a racial epithet denoted a "hate crime," how many million such crimes occurred in 1930, compared to the few hundred precisely recorded by today's bureaucrats? The clearest evidence of such a racial sea-change came last year, with the absurd outcome of the O.J. Simpson case. While local authorities were gearing up for a black uprising in the event of conviction, nobody suggested that white protesters might riot in the streets, or attempt to impose lynch law. Could such racial quiescence reasonably have been anticipated in any decade of American history prior to the 1970's? Black and white, post-civil rights generations have thoroughly internalized the ideologies of that movement, and it is disingenuous to suggest otherwise.

In other forms of bigotry also, we live in a golden age of tolerance. Stern can certainly find plenty of asinine and unpleasant remarks about Jews from his subjects, and similar ideas have polluted radical-right conspiracy theory. Consciously or otherwise, the concept of the "New World Order" does indeed have roots in the infamous *Protocols of the Elders of Zion*, and Nazi militants do declare war upon the Zionist Occupation Government, ZOG. But owing to the overwhelming power of the holocaust in American culture and rhetoric, and the ensuing idealization of the state of Israel, active anti-Semitism is virtually absent from contemporary politics, at least anywhere remotely near the mainstream. This is the first era in which a career can be irretrievably destroyed by an overt racist remark, or even by what is interpreted, however tendentiously, as a "coded" remark about some ethnic group. (Exceptions are allowed for Arabs or Serbs, on whom permanent open season has been declared.)

Though the Oklahoma City bombing showed that rightist paramilitaries could indeed pose a deadly terrorist threat on American soil, it is far from obvious that the event has any connection with the broader radical and antigovernment views held by millions of peaceful citizens. *A Force Upon the Plain* is useful for what it reveals about hard-core terrorists, but its extravagant account of the "politics of hate" should be read with skepticism.

Philip Jenkins is the author of Pedophiles and Priests: Anatomy of a Social Crisis *(Oxford).*

It's All Too Beautiful

by Thomas Fleming

The King of Babylon Shall Not Come Against You
by George Garrett
New York: Harcourt Brace;
336 pp., $24.00

◆

Lock up your daughters, draw the blinds, and check your house for bugs and hidden cameras. George Garrett has put on his cap and bells again, and every page of his new book constitutes a thought crime against the stupid hypocrisies on which the current American regime is built. Part mystery novel, part social satire, *The King of Babylon* is more like *Tristram Shandy* than it is like the postmodern fictions that are set in a nowhere populated by nobodies. It is also that rarest of rare books: an American novel that actually takes a close look at America.

To get at his theme—the America of the 90's that was forged in the late 1960's—Garrett sends his hero (an investigative reporter) back to his hometown in Florida to research two bizarre murders and an apparent suicide that took place on the same day as the assassination of Martin Luther King. The town has changed almost beyond recognition, and the leader of the social and professional elite is a black attorney who inherited the estate of his rich white patron. (Is this old-fashioned paternalism or a symbol of affirmative action?)

Of course, Paradise Springs was no Eden in the 60's: the Episcopalian priest was a drunkard and a womanizer; the intellectual professor, Moe Katz, is a sometimes brilliant fraud (some things have changed: Anglicans rarely chase women any more, and professors are never brilliant). The rising generation in general gives us a hint of the future in store for us: the priest's beautiful daughter—an amoral thrill-seeker who links up with a serial killer; Alpha Weatherby—a young religious fanatic who embezzles from the bank and ends up dead; her best friend Darlene, the town slut who later becomes a phony palmist but a genuine psychic; Alpha's little brother Penrose (the future real estate magnate and New South business dynamo) is a vindictive little snot who would have leaped at the chance to join either the Mafia or the Gestapo.

Garrett's fans will recognize the deliberate echoes of his earlier work: the sideshow midget preacher is almost a parody in miniature of the crooked evangelist of *Do, Lord, Remember Me*, while the investigative reporter—even by his name, Billy Tone—is obviously a cleaned-up version of John Towne, Garrett's Mr. Hyde alter ego, the author of most of *Poison Pen*. Like Towne, Tone has written pornography and made a stab at scriptwriting, and also like Towne he (and George Garrett) is obsessed with the two-dimensional falseness of American life in the age of television, advertising, and—above all—celebrity.

As one of Garrett's warmest admirers, I wondered, at various points of the book, if the author had made a mistake: Is it possible to sustain interest in a mystery plot, when so much of the book is devoted to satire? Technically, the trick is managed adroitly: the investigative reporter records a series of frank confessional statements that lay bare the vulgarities and dishonesty that we are generally not allowed to talk about. About halfway through I began to lose sight of the story, as one social freak after another gives his version, not just of the events of a quarter century ago, but of what's wrong with American life. It was just at this point that the reins are picked up again and the story gallops to a conclusion that is both surprising and (with the benefit of hindsight) inevitable. In tightness of conception (if not of composition), *The King of Babylon* invites comparison with Sophocles' *Oedipus*, and like the *Oedipus*, it is a tale of guilt

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On the Coming Multiplication of Individuals Who Send Explosives by Mail

by Richard Moore

They won't be madmen,
  mankind haters,
just Unabomber imitators;
so let us brace ourselves—and bless
our popular, untrammeled press,
likely to cause this gory mess.

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and conscience, of a society losing its faith both in its gods and in itself.

The story is told with words, obviously, but the technique sometimes resembles a collage of commercial images from photographs, movies, TV shows. One of the main actors (kept deliberately offstage) is Martin Pressy, a spoiled effeminate rich kid who only discovered his *métier*—that of the highbrow pornophotographer—in 1968. The bizarre sequence of events ultimately turns on "Missy Prissy's" strictly pure and two-dimensional interest in women and his projected volume of nude photographs.

Even the normal characters are stereotyped in celluloid imagery. Billy's new girlfriend is Judy Davis in *Barton Fink*; the rich black attorney is a "lighter skinned version of Danny Glover"; Penrose has "Paul Newman eyes"; and the editor of the local newspaper is a "sawed-off version of Jason Robards." The allusions are not random: individually they constitute a set of shorthand references that elucidate the character, somewhat as Hitchcock liked to cast well-known stars (Cary Grant, Jimmy Stewart) whose characters had been established even before appearing in the new film. Collectively, however, these pop-culture allusions hint at Garrett's almost obsessive interest in the attrition of American character under the millstones of mass culture. "For the first time," says Billy Tone, "we can see ourselves . . . in the eyes of distant strangers. . . . We have become small and ridiculous, like the Lilliputians. We are, from this point of view, here to be managed, manipulated, exploited. We're nothing more than the pitiful consumers of whatever they wish us to consume."

The principal cause of our shrinking is television, which has displaced reality. As the newspaper editor explains:

> The sixties, are when it all happened. When public figures began to get the hang of it, how to use it. They could see that in TV, image was far more important than "reality." That shadow had more value than substance. They could understand that it's all smoke and mirrors. What you see is what you get, and what isn't there doesn't exist. They could see—I'm thinking of Johnson, of the Kennedys, hell, everybody in the public light—that you either control it or it controls you. It can make anything happen. It can turn victory into defeat, vice into virtue, cowards into heroes, and most of all it has no memory at all. Now you see it and now you don't. Yesterday's heroes are today's criminals [e.g., the leader of the Freemen] and vice versa.

The Kennedys did, however, achieve a kind of permanence through their martyrdom. What a blessing, in this age of images, is an early death. Contrast the posthumous reputation of JFK with that of more popular recent Presidents who had the misfortune to live to a ripe old age, of Elvis with Frank Sinatra, of John Lennon with Paul McCartney. Imagine how Bob Dylan would be worshiped, if he had been killed on his motorcycle back in 1966?

Abraham, Martin, and John were the pop political martyrs celebrated in Dion DiMucci's 1968 one-hit comeback song (I wished at the time that Dion had stayed on drugs). There is, in fact, no pop idol more artificial—more "plastic," as we used to say in the 60's—than "Dr." Martin Luther King, Jr., and Garrett has made King the pop cultural focal point of his photo-iconography. To figure out King's character, the "Judy Davis" librarian looks through a series of photographs of King and observes that from his habit of never smiling, King turned his face into a mask (i.e., a cultural image, not reality). The really disturbing photograph is a shot of a warm and smiling King at the Nobel Prize ceremony, revealing—paradoxically—that he had spent his life holding his real self "in check." In the end the camera would "eventually swallow him whole and leave only its multitude of fragmentary images behind." Garrett, while drawing attention to King's falseness—his adulteries and plagiarisms—does not see King either as evil or even essentially hypocritical. Instead, he prefers to take King's call for a color-blind society at its face value as the last chance for the two races to understand each other.

In the book's present tense (1994), relations between blacks and whites are summed up by the hypocrisy of Penrose Weatherby, getting rich from building low-cost homes for blacks. His father is more honest: an old-fashioned bigot who is open about his prejudices. But there is no place for candor in the 1990's. Martin Pressy is coming out with a new book of photographs of fat people, with a hilariously pretentious introduction by his old friend Professor Moses Katz. ("After the experience of these photographs the world will look different and, perhaps, more wonderful.") Billy Tone, discovering the truth about himself, goes off to make movies in Hollywood, "a place where everybody wants to be like Fellini only without doing a lick of work or taking any chances."

America in the 90's is as real as a Hollywood set or a Disneyworld recreation of Medieval Paris, without either the rats or the stink and, one might add, without either the heroism or the faith. "It's all too beautiful," as the 60's drugpop song went, but in pasting pretty images over the reality of racial differences and racial bigotry, we have also stifled whatever small aptitude we had for telling the truth. George Garrett is our Diogenes, and his latest book, while shedding light all over this kingdom of lies, can still not reveal an honest man.

Thomas Fleming is the editor of Chronicles.

The Late Unpleasantness

by Katherine Dalton

The War the Women Lived: Female Voices from the Confederate South
Edited by Walter Sullivan
Nashville: J.S. Sanders & Company; 319 pp., $24.95

◆

There is nothing so painfully ironic as a war between countrymen. So when nurse Kate Cumming speaks bitterly in her 1864 diary of "our *kind* northern *friends*, who *love* us so dearly that they will have us unite with them, whether we will or no" it is hard to blame her.

Cumming is one of 23 Southern women whose memoirs and diaries Walter Sullivan, an English professor at Vanderbilt University, has collected in this anthology. The authors range from Mary Boykin Miller Chestnut, wife of U.S. Senator James Chestnut of South

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Carolina, to the spy Belle Boyd of Virginia, arrested first at 19, to Céline Frémaux of Louisiana, who was only ten when the war began. There are many wonderful stories here, some very moving. Several of these women were, like Mary Chestnut, from wealthy families; all were ruined by the war. By 1864, Céline Frémaux was so poor that her family made their own shoes—using cartridge boxes and belts for the soles, and velvet from an old hunting suit for the uppers. Sewn together with copper wire, these shoes would last for seven or eight wearings—enough for a month or two of church.

In that same year in Georgia, in the wake of Sherman's Army, Mary Ann Harris Gay traveled unescorted from Decatur to Social Circle—a dangerous trip at the time. In her first two days traveling she saw no living animal, not even a bird, other than a dog guarding the ruins of a house burnt to the ground. When she returned to Decatur, she was met by women and children who ran after her and begged for something to eat.

Other women besides Mrs. Gay showed great courage. After Richmond fell in 1865, Phoebe Yates Pember continued to nurse her soldiers under occupation. Frustrated one day to find her stores of food had been commandeered by the Union soldiers, she went to the commissary and, to the guards' astonishment, simply pushed aside their bayonets and unlocked the door. She then filled her basket, "with an explanation to them that I could be arrested whenever wanted at my quarters." (She was allowed to nurse and feed her patients until there were none left.)

Some of these women write very well, and most of the rest write simply and clearly—only the lady spies are guilty of penny-dreadful prose, and their stories are still entertaining, if not always credible. Sullivan has helped his authors (and readers) by silently editing out political commentary and family details he found less interesting. He has also quoted selections that are generally longer than those found in similar anthologies, and quoted several women two or three times, so that you get a real feeling for their characters and circumstances. This is the case with Phoebe Pember, and with Mary Jones and her daughter, Mary Mallard, whose twin diaries tell one of the most powerful stories in the book.

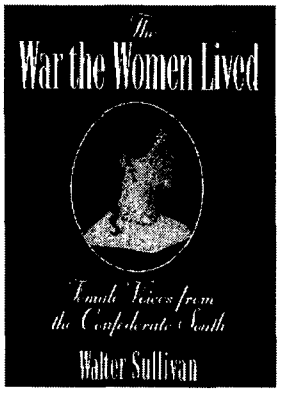
In late 1864, Mrs. Jones and Mrs. Mallard were living with a friend, Kate King, and five children on one of the Jones' estates near Savannah. The diaries cover the month Sherman's Army came through, December 1864 to January 1865. During this time the women were robbed of their food and possessions (as were their slaves), had their house frequently invaded, were cursed and insulted, and sometimes threatened with death or fire. One soldier took their well chain, telling the women they had no right even to water. Mrs. Mallard writes that her male slaves had to stay home with their wives to keep them safe from assault, and there was one night when the white women, too, were told by a servant that they were in danger. They prayed and then sat sleepless in the dark, finding in the morning that a Union soldier had taken it upon himself to guard them. Mary Mallard, who was pregnant, finally had her daughter on January 4, while a hundred Union soldiers yelled and cursed in the yard.

In an entry dated January 7, when the worst was over, Mary Jones examined her conscience and then wrote, "I never failed to let them know that before High Heaven I believed our cause was just and right. The isolated and utterly defenseless condition of my poor family compelled me often to use entreaties; but after the day was over I frequently inquired of Kate and Daughter: 'Tell me, girls, did I act like a coward?'"

Mrs. Jones' emotion makes the war feel very real, and very recent. This is the virtue of a well-chosen anthology: in it we have a chance to hear the people who lived through a great event tell their own tales, in their own way, with an immediacy that even the best third-party history cannot have.

Katherine Dalton is a writer and editor in Louisville, Kentucky.

The War the Women Lived



Female Voices from the Confederate South

Edited by Walter Sullivan

Selections from the journals of Confederate women, 1861-1865

"It was a splendid notion of Walter Sullivan's to assemble a chorus of Confederate women diarists, who, as this book shows, did a great deal more than merely stand and wait. They also served, and are eloquent in their memories of those days." -SHELBY FOOTE

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Brief Mentions

The Great Betrayal: The Elite's War on Middle America. *By Louis T. March and Brent Nelson (Raleigh: Representative Government Press), 138 pp., $5.95*

A devotion to free trade seems to be common among "conservatives." But free trade, according to Louis T. March and Brent Nelson, is a bad idea. "We should defend our markets," they write, "as we should defend our borders." The term is really a euphemism for letting the Fortune 500 decide what the rules of trade will be—at the expense of American workers. In the authors' view, NAFTA and other schemes so beloved of Beltway ideologues have two main results for blue-collar Americans, as companies relocate in Mexico or are flooded with cheap labor: belt-tightening and layoffs. According to Ravi Batra's book *The Myth of Free Trade*, "Ford Motors today produces roughly the same number of cars and trucks as in 1975 with only about half the number of employees." Citing an article by *Chronicles* contributor Alfred Eckes in *Foreign Affairs* (Fall 1992), March and Nelson point out one result of abandoning traditional tariff policies. Due to tariff cuts, says Eckes, "average American wages in 1991 were 20 percent below 1972 levels," a drop accompanied by huge layoffs. Sadly, it was only after this fiasco that Republicans threw in the towel on "free trade," renouncing the protectionism of their forebears. Today, generosity to our rivals is the dogma of many "conservatives," even as America rots from within.

—Michael Washburn

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by Samuel Francis

Republicans and Real Federalism

With all the febrile ebullience of a rerun of a 1950's sitcom, the Republican Party will descend upon San Diego determined to efface any evidence that Pat Buchanan ever existed and committed to staging the miraculous spectacle of a political convention without any politics. Yet most Republicans, whether or not they are present at the convention, will find the experience edifying, if not inspiring, and they will have little trouble discovering in the withered Bob Dole a leader in the mold of such champions as Dewey and Bush. President Clinton and those members of his family and cabinet who remain out of jail will be hooted and booed to the rafters, and there will be plenty of sunshine to enlighten the citizens about the brilliance of the age that is about to dawn on the Republic once they deposit their fate into Mr. Dole's hands. If, in the tradition of Lincoln, the Republicans can fool enough of the people enough of the time, they might even accomplish their purpose, which is to allow Mr. Dole to complete his entry in *Who's Who* as he believes it should be engraved for the ages.

In the absence of Mr. Buchanan and his followers, we can expect few issues or personalities of substance to appear before the San Diego convention, and even if they did, they would only confuse most of the delegates. The Buchanan forces may be able to win some or several fights over the platform, and Mr. Dole might even peruse the document during some lull in his subsequent progress around the nation. But on the whole, Republicans today care little for issues or their political and philosophical substrata, and with fantasies of triumph dancing before their eyes, most will not ponder the metaphysics of the course on which they and their new captains are determined to sail.

One issue on which there will be little pondering but much oratory is abortion and what the party's new captains, quivering with principle, will do to abolish it. Throughout the primaries, for all the candidates' gumbeating about free trade and the flat tax, abortion seemed to be the engine that drove most of the voters. Both Alan Keyes and Bob Dornan vowed that they were even more committed to its extirpation than Buchanan, and even the centrist-to-liberal contenders swore that they were no less attached to the sanctity of embryonic life than those on their right. Despite the presence of a loud pro-abortion faction in the party and the uncertain simpering of such pro-lifers as Ralph Reed of the Christian Coalition, there is little prospect that the platform will differ from earlier ones with respect to the issue. This is unfortunate, since that position is neither a sound one for the restoration of the kind of constitutionalism Republicans should support nor an effective one for curtailing the practice of abortion. It should by now have become clear that the fixation of the Republican right on the issue of abortion has become an impediment to the fulfillment of what ought to be its larger agenda.

The position of the platform on abortion is that the Republicans support what is known as the "Human Life Amendment," which reads:

> The unborn child has a fundamental individual right to life which cannot be infringed. We therefore reaffirm our support for a human life amendment to the Constitution, and we endorse legislation to make clear that the Fourteenth Amendment's protections apply to unborn children.

The language has been in the platform since 1980 and has been endorsed by all the nominees since then, and some of them may actually have wanted to see it enacted. The idea of the Human Life Amendment is that, by defining the unborn fetus as a living human being, the amendment will bring the babe under the protection of the 14th Amendment's provision that no state "shall deprive any person of life, liberty, or property, without due process of law." Once it is clear that the fetus is a "person," argue the amendment's supporters, abortion will be outlawed throughout the country, and both *Roe* v. *Wade* and all state and federal directives authorizing the operation will be overturned.

The most common argument against the HLA is the purely pragmatic one that it alienates voters, especially women, and that by jettisoning it the Republicans could expect to seize votes from the Democrats. That argument may contain some truth, but it is usually a blind, voiced by those who really do support abortion or the right to have one and who are less concerned with Republican political prospects than they are with pushing a "pro-choice" agenda. In any case, the appeal to political pragmatism, despite its attractions for the party's mainstream, ought to be irrelevant to those more concerned with using the party as a vehicle for an authentically radical conservatism. From that perspective, the problem with the HLA is that it simply is not radical enough.

In the first place, in the 16 years the amendment has been in the platform, it has not been passed by either house of Congress and shows no sign of being passed in the near future. It has not prevented a single abortion anywhere in the country, and even in the unlikely event that Mr. Dole as President seriously supported its passage and a Republican House and Senate approved it, few state legislatures would ratify it. Indeed, so useless has the HLA been to the pro-life cause that the most zealous supporters of abortion in the party and the country have every reason to keep it in the platform. Republican Presidents and lawmakers can continue to endorse it, periodically pray in public for its passage, and gain all the political support that such theatrics will yield, but the amendment won't be passed and it won't make any difference. As long as it remains in the platform and remains the favored conservative-Republican remedy for abortion, what the pro-lifers call the "slaughter of the innocents" is likely to continue unabated.

But in the second place, and more seriously, the HLA does absolutely nothing to redress the root causes of the destruction of constitutionalism that the Supreme Court has inflicted on the country and indeed does much to confirm and advance it. The amendment relies on the flawed and illegally passed 14th Amendment and on a misinterpretation of the 14th's intent, and by doing

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so it essentially ratifies, or acknowledges the legitimacy of, the many usurpations of states' rights that the Court has imposed.

Since the 1920's, and especially since the Warren era, the Court has relied upon the fiction that the 14th Amendment "incorporates" the restrictions on the federal government contained in the Bill of Rights and allows the Court to strike down any and all state and local laws that meet with its displeasure. The flaws of the "Incorporation Doctrine" have been relentlessly exposed by Raoul Berger and others, but that has not prevented the Court from using it as a weapon to strike down state laws governing obscenity and subversion, racial and religious discrimination, sexual misbehavior, and voting practices, as well as laws against abortion.

The result of the Incorporation Doctrine has been the political triumph of modern liberalism through illicit judicial enactment or repeal of laws that could not have been enacted or repealed through democratically controlled legislative processes at state or federal levels. Earl Warren's admirers occasionally are bold enough to acknowledge this. As liberal legal historian Paul Murphy writes, Warren "utilized the judiciary as a constructive policy-making instrument" and "intent more upon social ends than upon legal subtleties and refinements, and candidly prepared to say so, he had pushed the nation, through his Court's legal rulings, to take public actions that Congress was unprepared to recommend and the executive was incapable, unilaterally, of effectively securing." But Congress was "unprepared" and the executive was "incapable" for the simple reason that, unlike Justice Warren and his colleagues, their occupants had to face the inconveniences of elections, and for all the high art and science of fooling some of the people some of the time, there are limits to how effectively this can be practiced by elected lawmakers.

It is through the opacity of the language of the 14th Amendment that the Court invented a "right to privacy" in its 1965 Griswold decision and not long afterwards used that fabricated right to legalize abortion throughout the 50 states in *Roe* v. *Wade* in 1973.

The strategy of the Human Life Amendment does not operate through the Incorporation Doctrine, but it does rely on the expansive power granted the federal government in the first section of the 14th Amendment and is of a kindred spirit with the doctrine, a spirit defined by the conviction that the states and their voters are on no account to be trusted and that any curtailment of their powers and liberties by federal mechanisms is a progressive step. While the 14th Amendment clearly denies states the power to deprive persons of life, liberty, and property without due process and gives Congress power to enforce these rights, it is a serious error for conservatives to rely on the 14th Amendment to restrict the rights of the states still further, even for so holy a cause as ending abortion. But that is exactly what the HLA proposes to do. In doing so, it would not "restore" much of anything and certainly not the constitutional federalism that prevailed prior to *Roe* and prior to the Incorporation Doctrine, but it would make use of federal power to impose a uniform rule on the states that anti-abortion forces happen to applaud.

Prior to the *Roe* decision, two states had legalized abortion through legislative acts, and a few others had begun revising their laws prohibiting it. This was fully in accordance with federalist usages, and the result, had the usages been allowed to continue, would probably have been a diverse set of state laws that sometimes forbade, sometimes permitted, and sometimes merely restricted and regulated abortion. That result, while not to the taste of anti-abortionists, would have been perfectly in accordance with the way in which the Constitution intended the country to be governed, and that, not the complete extirpation of abortion through the further extirpation of the rights of the states, is the end to which serious radical conservatives should work.

By relying on the Human Life Amendment, the anti-abortion party will contrive not only to allow abortion to persist unabated but also, in the unlikely event the amendment is ever adopted, to rely on the very same expanded federal power that lies at the base of liberal dominance. Even if the amendment never passes into law, by invoking it as the principal remedy for abortion, anti-abortionists will bind themselves to the illicitly expanded federal power created by misuse of the 14th Amendment. Rallying around the HLA, in other words, will lock the American right into support for the very federal leviathan and its pseudo-constitutional foundations blocking the right's agenda in the first place.

What Republicans, conservatives, and anti-abortionists should do is rid the platform of the Human Life Amendment as now written and craft another, one that, while expressing abhorrence of abortion and affirming that the fetus is a human being, also takes aim at the root of liberal dominance, the Incorporation Doctrine itself. The party also should draft and adopt as a principle of its platform a specific affirmation of the states' rights guaranteed by the Ninth and Tenth amendments, and it should commit itself and its standard bearers to work for the restoration of those rights.

In doing so, the Republicans would reach to the roots of liberal power and pull them up. They would thereby rescind *Roe* v. *Wade*, abolish the court-created "right" to an abortion, allow the states to settle the issue in accordance with what the citizens of the states and their norms demand, and effectively end the abortion issue as a national political issue. They would also reach far beyond the abortion issue itself to all other instances in which the political left has "utilized the judiciary as a constructive policy-making instrument" and, in a word, restore the Constitution and the state and local authority that the Constitution's federalism recognizes. Finally, by allowing states to decide for themselves whether abortion should be legal or not, they might even succeed in abolishing abortion in some, maybe even many, states. That in itself is a bit more than the Human Life Amendment has ever accomplished or seems likely to accomplish.

Of course this will not happen. There are few in the Republican Party today who even understand what real federalism is, and the preferred Republican remedy for the handful of illicit usurpations by the courts to which they object at all is to support still more expansion of federal power. For a party that thinks only of winning elections and getting the government and the public purse into its paws, reducing federal power holds no charms, and for the new abolitionists who demand the national imposition of their own moral obsessions through centralized power, federalism is simply the work of demons. Americans who want something resembling the old Constitution will be more likely to find it on the reruns of 1950's sitcoms than in anything the Grand Old Party proposes.

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Foreign Correspondences

by William Mills

A Jug of Wine, A New Zealand Trout

◆

With Missouri frozen solid for two February weeks in a row, naturally one's thoughts turn to the Southern Hemisphere. There were some hot spots in our beloved country even this winter—Miz Hillary was testifying before a federal grand jury, the Rose Law Firm was smoking, and Mr. Starr was building a few fires of his own.

Nearer to home, though, my friend Woody Cozad had been elected to head the Republican Party here in Missouri, and I felt with the state in such capable hands I could surely go south to the land of the Kiwis and startle a few trout. And as always, do a recon for places to relocate when the hate speech toward white males becomes intolerable.

Auckland, on North Island, spreads out around a couple of harbors and its excellent seafood is well known. I hopped in a rental car and headed down to the wharf, suddenly realizing the whole country was driving on the wrong side of the road. The car company had no automatic transmissions and so on the trip downtown, my right and left frontal lobes were stumbling over each other to change sides. After the appropriate aggressive movements, the Kiwis graciously gave way. For lunch I had a half dozen Bluff oysters and then their rock lobster, which Kiwis insist on calling "crayfish," and as my family in Louisiana would insist, misspelling in the bargain, knowing full well it's "crawfish." I must say, though, I would like to see the Cajun's face who pulled one of these big babies into his pirogue.

After taking a round trip on the Devonport commuter ferry to get a view of the city skyline and the many sailboats in Waitemata Harbor, I walked the downtown streets, coming upon a shop that specialized in things Scotch. The population of New Zealand is overwhelmingly of British ancestry, and a large number of these are Scotch. Straightaway I began looking for the tartan of the Munro clan, my own on my mother's side, and found it. One can buy tartan in several places in New Zealand, especially Dunedin.

As a Kiwi remarked to me, New Zealand is a "wee country," with just under three and a half million people. Seventy percent of these live on North Island, and of these, eight to nine hundred thousand live in Auckland. Although it may be a "wee country," in the last two world wars (as James Michener has observed), "Among the allies, she had the highest percentage of men in arms—much higher than the United States—the greatest percentage overseas, and the largest percentage killed." Between the two wars, New Zealand tracked along with many other countries in its fascination with socialism, and conjunctive with this fascination occurred the attendant power that accretes to a government caught up in the necessities of war. And, lo, in the late 30's, the welfare state came to the Kiwis. Like some of the other "victors," New Zealand's socialists took a couple of decades to shred the economy and Brazilianize the NZ dollar.

But, then, an anomalous thing happened on the way to the bottom. As a former cabinet member told me in Auckland, the Labour Party (!), not the National Party, took up stringent reforms from 1984 to 1989. In 1985 there were 88,000 civil servants (I know, I know, would that we had so few), and today there are 35,000. Ah, that our Democrats could be injected with this tonic. Furthermore, the country gave up on the unskilled being led by the unqualified, i.e., state-ownership of business, and the government began to return such things as railroads and insurance to those who either knew how to run them or were replaced by those who could.

In earlier times, 85 percent of exports went to England, with all the accompanying transportation costs, and now only 6.1 percent goes there. Tourists in 1985 numbered 750,000, and in 1996 the Kiwis are shooting for 1.3 million. Getting courage from their Labour colleagues, members of the National Party who came to power in 1990 managed to put a leash on the labor unions. Now the NZ dollar is strong, rising just a tad during my visit. As a matter of fact, this same former cabinet member confided that Labour could probably have stayed in power, but the prime minister fell in love with his speechwriter, and she started running the country (get me the White House on the phone, I think I have an idea).

Traditionally, the government has been controlled by the party that won the most seats in Parliament. What could result from this system, and what has resulted, was a party that might barely get more seats than the others but controlled the government, displeasing a very large share of the electorate. With this weak mandate, the government often had a difficult time putting its own programs through. Growing discontent with the status quo led to a referendum on a plan called MMP (Mixed Member Proportion). New Zealanders have told me that perhaps a majority of the voters did not really understand what MMP meant (certainly not its consequences), but the referendum passed as a part of a "throw the rascals out" reaction. MMP passed by 52 percent against 48 percent. One change would be to expand the number of members of Parliament from 99 to 120. Of the 120, 60 will be elected in the traditional way, from their constituencies. The other 60 MP's will be elected from party lists. Each voter has two votes: one for his constituent MP and one for his party list. Thus, should the New Zealand Alliance poll 20 percent of the vote, while it might theoretically gain no constituent MP's, it would have 20 percent of the pool of party list MP's, or at least 12 MP's.

On the face of it, MMP sounds more "democratic," but at least two results are now apparent. Voters may well vote for their local constituent ("he's a good old joe"), but may vote another party's list. (Though the parliamentary system is not like our own, such a vote might be like a Democrat voting for Reagan but otherwise voting a straight Democratic list). A second result will lead to dirtier politics. Smoke-filled room deal-cutting is almost a certainty now.

Concluding that I did not have the time to include in my travels the much

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recommended Bay of Islands region several hours north of Auckland, I headed south along the main Highway 1, through Hamilton and on to the largest lake in New Zealand and the center of North Island, Lake Taupo. On the way I observed what was to be confirmed everywhere I went in the country, that Kiwis are consummate stock raisers and farmers. Like their ancestors from Britain, they keep their fence rows, paddocks, and farmhouse yards tidy and trim. This is true of farms far from towns so there is no question of gentrification by city wage earners. These are working farms.

Approaching Taupo, I passed the Wairakai Geothermal Project, which has tapped the clouds of steam from underground shafts, and which drives electric generators. I also stopped off at Huka Falls, and from the footbridge over the Waikato River felt its booming power. The next morning I was snapped to consciousness by the "varooom" of a new red Ferrari that had parked in the courtyard of the motel. A teenaged boy and his girlfriend off for an early start over the curvy mountain roads.

Not making connections with a fly-fishing guide, I engaged a charter boat for some trolling after rainbows. This would not normally have been my choice of fishing, but the scenery was great, and my guide, Gus Te Moana, the only Maori among the many guides on the lake, was the perfect companion. After either retirement from one job in industry, or downsizing (I never asked), he had started his own charter boat service. In his late 50's or early 60's, deeply tanned and silver headed, he explained the three most common kinds of trolling on the lake: harling, lead-lining, and down-rigging. In England, harling is trailing a fly behind a boat for salmon while it's being rowed back and forth between river banks, but as near as I could gather, what it meant on Taupo is surface trolling with a fly tied about a foot from the back lure. In lead-lining, the lure is tied to from six to 12 feet of nylon line, which is in turn tied to lead line, whose weight takes it down perhaps 25 feet.

We would use the down-rigging method. After we reached the best fishing grounds, Gus tied lures on the two lines, then further down, attached round, ten-pound lead weights which were dropped to 113 feet, carefully measured out by small electric winches that I noticed had been made in Canada. The rods were then laid out almost horizontal in outrigger fashion. The depth was determined by water temperature, and during these warm days, the rainbows were most comfortable quite deep. We got comfortable ourselves and, as fishermen are wont to do, sat back in our fishing chairs and talked about worldly matters, all this with Mt. Ruapehu, the tallest mountain on North Island (an active volcano) in the background.

I brought up the New Zealand First political party, which is headed by Winston Peters, a Maori. I didn't know anything about him and merely remarked that I had been told he was quite a handsome man, whereupon Gus broke out in a long laughing spell, gasping, "Yes, yes, a very handsome man." I think Gus meant something much more than this, but I didn't pursue the matter. A little later we were enjoying high talk about the advantages of traveling to other places, noting the different ways people solve the problems of living and Gus said, "Yes, yes, seeing other members of the family." About that time, world talk was stopped in its tracks as a six-pound rainbow hit the lure and the focus of my attention was much reduced.

I gave my trout to the owner of the motel and the next morning drove south along Highway 5 to Napier. Luckily I had filled up the car with gas before I left because the drive was through sparsely inhabited mountainous terrain. The road was through the Waipunga River valley and periodically the road crossed the river itself. Besides the Waipunga Falls, the river itself screams "Trout!"

Some say the attraction of Napier is the architecture in the Art Deco style that was introduced following the earthquake of 1931 that devastated the town, but for me it was the wine region of Hawke Bay. The top three wine regions in New Zealand are Henderson Valley (northwest of Auckland), Hawke Bay on the east coast of North Island, and Marlborough on the northeast of South Island (which includes Blenheim).

These days New Zealanders are taking their wine-making very seriously and are justifiably becoming world famous. Wine-making took its first steps in the early and middle parts of the 19th century, but the industry really took off in the 1960's. While there are certainly good reds, for example Corbans' Merlot from the Marlborough region, the Chardonnays and Sauvignon Blancs steal the spotlight. Of the ten top-rated wines available in the United States as listed by *Wine Spectator* in 1994, nine were whites, almost all Chardonnays, four of which came from Hawke Bay and four from the Marlborough region. Using 1993 figures, which do not reflect the vigorous growth of the last three years, of the four and a half million cases of wine produced, three and a half million were consumed locally, and of the million exported, only 19,000 cases (2 percent) made it to the United States.

There is something gratifying about driving along roads bordered by vineyards, whether in Italy, Yugoslavia, Chile, or the Republic of Georgia. I know there have been interesting, certainly powerful, societies which did not have vineyards, but I would not prefer to live in them. It's one reason I become more comfortable year after year as my own Missouri wine region continues to grow and improve. One of the felicities for the wine lover meandering about Hawke Bay is to come serendipitously upon a vineyard and winery that produces splendid wine which can be had only by coming there. This happened to me while I was looking for a place to have lunch south of Napier. I came upon Crab Farm Winery which also served a ploughman's lunch. A pleasant young woman suggested the '94 Chardonnay with my potato roasty topped with mounds of bacon and avocado. The wine was full-bodied, fruity, and reflected its aging in French oak. The winery was only 16 years old. The land of the vineyard had come into the family in the 19th century as a payment of debt. The owners discovered the "farm" was just mudflats and tidal water, covered with crabs. Then the 1931 earthquake raised the land above sea level. Toward the end of my lunch the young woman remarked that she was going to the Olympics in Atlanta this summer. I asked, "As a participant?" "No," she replied, "I'm going with a group from New Zealand to tell the people there about Jesus Christ." I told her I thought Atlanta could surely use her. An hour later, feeling much relaxed and wanting to avoid taking a midday nap, I flung myself into Hawke Bay, bracing against the rough, cold surf of the South Pacific.

There's lots of good fishing on North Island, but South Island was beckoning. From windy Wellington, the capital, I took a light plane across Cook Strait for Picton. Likely the descriptive "windy"

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gets its name from the big time air currents funneled through the strait, but of course Parliament is there, too. At the landing approach, we hit the deepest air pocket I've ever experienced.

I had hoped to rent a car here, but the Blenheim Wine Festival was going on and there was not a car to be had. I took the bus to Christchurch hoping for better luck and was stalled on the narrow highway for two hours while firemen and helicopter crews cut four young people out of their cars after a head-on collision. Had we been a minute or two earlier, my own story could have been quite different. As it was, we continued along the beautiful coast road, the grass along the hill slopes now golden instead of the green of North Island, and sometimes came upon seals sunning on the rocks.

Christchurch is very British, especially the older part, and the punters were out on the River Avon as it wound through the Botanic Garden. Not far away in the park was another wine festival (I told you the Kiwis take their wine seriously). I had trout on my mind, however, and quickly motored south, crossing the Rakaia and the Rangitata rivers, all noted for trout and salmon, and finally turning toward the Southern Alps, following the Waitaki. I was looking for an American I never found, in Omarama, but luckily fell into superb company and magnificent trout streams. This was the Mackenzie country of South Canterbury.

Roger Webb, my guide, was about 30 and the complete outdoorsman. He had almost quit guiding fishermen because of a back injury, but a local girl told me he knew the place like the back of his hand. He had worked for some years on the big sheep stations, a lot of the time building those long fences that seem to go on forever, disappearing over mountains. Much of the time now he works at taxidermy, his shop full of boar, red stag, whitetail deer, chamois, and tahr. These species have all been brought into New Zealand, the red stag, for example, from selected herds in Scotland and Germany, the tahr from the Himalayas. Without predators, species like the deer have multiplied so rapidly that they're considered pests and there is open season.

The rainbows and browns were introduced only 100 years ago from California, and did they ever find a home! They have proliferated because of New Zealand's clear, unpolluted cold streams. My favorite stream while staying in Omarama was the Ahuriri River that ran close to town. It originated high in the mountains and flowed through huge sheep stations in a magnificent valley. The country reminds me of the parts of Wyoming north of where Chilton Williamson hangs out and has been known to wet a fly himself. All around Mackenzie country, the brown trout is king, though there are rainbows. My tops was four pounds, but there are lots bigger ones around. In some ways they're harder to catch because the water is so clear and they can see further. Roger was an expert stalker. He spied a huge brown from a high bridge, and after first offering it to me, he scampered down the difficult rock incline, flipped a dry fly under a mess of overhanging limbs and nailed him.

One of Roger's previous occupations was as rabbiter, which brings up one of New Zealand's unfortunate introductions. It probably sounded like a good idea at the time, but it has proved devastating. With no real predators, rabbits reach such colossal numbers they literally leave the ground bare. I wouldn't have believed it until I saw for myself, and I was assured I had not seen the really bad areas. Rabbits can simply ruin a farm and a farmer. Often, it's a catch-22 situation. With no grass the farmer is ruined, yet on the other hand his farm may be marginal enough that the cost of killing the rabbits ruins him. Roger shot them from a three-wheeler or a motorcycle and had to quit because the rough ride hurt his back too much. I asked him the most he had killed in a day, and he replied that with a partner, 332. That's at a NZ dollar a rabbit. The other method is poison. Molasses and oats are put out twice, and on the third application the mix contains a poison called 1080. This is not cheap either. 1080's approval by the government may be removed (due to poisonous residues) in the future, and currently that leaves the gun or trying to fence them out. I offered to send the Kiwis a sack of bobcats, but they said they were not sure that wouldn't be worse than the rabbits.

Roger took me to visit Ribbon Wood, a 35,000-acre sheep station not far from Omarama run by Colin and Gwenda McKay. Roger had worked for the McKays at one time, and when we first arrived we saw their son and daughter, about 19 and 20, worming a group of sheep as it was pushed through the corral alleyway. They gave us directions to their dad, who was on his way to fix a paddock gate. While he worked and talked about Ribbon Wood, the rabbit problem came up and he estimated that he spent annually about $10,000 (NZ) trying to control them. Later while we visited some Douglas Fir plots planted by him with government assistance, he discussed the current low wool prices. Wool, like so many of New Zealand's products, depends upon factors and conditions outside the country and largely beyond its control. One such condition was a long mild winter in Europe. Wool clothing was not as much in demand. He said the sheep farmer had to be more diversified and flexible than before in order to survive. Focusing on a single breed, one bred mainly for the carcass, for example, makes one more vulnerable. In addition, cattle raising can be added to the mix for more protection.

The sheep station began in the flat of a valley, but went right over the mountains. A lot of fencing, a lot of hard work. Sheep farming (with of course cattle) is deeply entwined with New Zealand's history, its image of itself. But like animal husbandry in the United States, it is being battered by many forces. Farm labor has been driven out or drawn to the cities, and young potential farmers do not have capital for a start. In the magazine the *New Zealand Farmer* someone was mourning this way of life and comparing it unfavorably with the "tatty international culture" represented by the opening of a Las Vegas-style casino in Auckland and all that came with it. Before I came to New Zealand, someone had described the country like the States in the 1950's. A kind of innocence and purity, a slower pace. All that sounded good to me. It is with some regret that I foresee what is likely coming. Increasing homogenization of their distinctive culture by the "tatty" New World Order and what we would call the Streisandization of rural life where the more numerous high-rise urbanites bully their scarcer rural citizens, fouling the landscape with their tony jackboots while visiting. After all, the left is the offspring of the festering city.

For the time being, though, New Zealand is a natural paradise. It's no place for any of you Euro- or Anglophobes, but if you'd like to see how another group of immigrants made it in style outside of the damp, cold motherland, come ahead. If you're looking

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about for a place to emigrate, get a copy of NZ's Self-Assessment Guide for residency. Acceptance for residency is based on a points system which considers education (12 years of schooling equals two points, for example, postgraduate degree, 15), work experience, age, and other settlement factors. One must have at least 21 points under what is termed the General Category. There is also a Business Category requiring an investment of between $500,000 to $750,000 (NZ). And you must be able to read and converse in English. Obviously we in the United States could learn something about immigration from New Zealand. Do people slip through the cracks? Yes, but nothing like through the sieve we insist on calling our national borders. With any place in New Zealand never more than 70 miles from the sea and clear mountain streams abounding, the country should certainly be on your list for a winter visit or for the bigger step of emigration.

William Mills is a novelist and poet whose latest work of fiction is Properties of Blood *(University of Arkansas Press).*

Letter From New York City

by Nicholas Stix

Crime Stories

◆

According to former New York Police Commissioner William Bratton, New York City is safer than it has been in years. And if you believe that, I've got a great deal for you, on a slightly used bridge.

Last December, the NYPD announced that violent felonies had dropped 17.2 percent for the previous 12 months, their biggest drop in 23 years. Murder, robbery, and assault went down 26 percent, 18 percent, and 10 percent, respectively, while rape somehow went down only five percent. (Clouding the issue even more, Board of Education spokeswoman Lena Kim told me last February 21 that city schools had recorded a 16 percent *increase* in violent crime during the 1994-95 school year.)

Last December also saw two massacres. Telling the black customers of a Jewish-owned, Harlem clothing store under "boycott" to leave, Roland Smith (a/k/a Abubunde Mulocko) then set a blaze which killed seven employees and himself. That the dead were all "persons of color," while three survivors whom Smith/Mulocko had shot were white, outraged his conspiracy-sniffing supporters. And in a botched robbery of a North Bronx shoe store, drug dealer Michael Vernon shot five people to death. (Citing "confidentiality," the Housing Authority covered up much of Vernon's violent past. Despite Vernon's remorseless confession to the massacre, and to having killed two cabbies in 1990 and 1993, Bronx District Attorney Robert Johnson immediately decided *against* seeking the death penalty; it was Johnson's refusal to seek the death penalty in the March shooting of a white police officer by a Dominican thug that led Governor Pataki to remove the D.A., a controversial act that will doubtless end up in court.) More typically, last September 22 in Lower Manhattan, a Mutt-and-Jeff team of "Crooklyn boys" tried to mug me, the only white on a full A train. "Manhattan makes it, Crooklyn takes it."

All of the above assailants were black men.

Things weren't always so bad. While visiting my sister during the small hours on Manhattan's Lower East Side in the late 1970's, nobody even looked at me funny. In 1990, an octogenarian lawyer told me of the long, romantic walks he and his wife had taken from Manhattan to Brooklyn on Depression-era Saturday nights, without being accosted.

Today, some prosperous New Yorkers hand over their money on the street to black males on demand, as a black man did in Brooklyn's affluent Park Slope area last January 20, without being touched or even threatened. The declarations of middle-class mugging victims—"Thank God, I'm alive." "They can take my money"—are music to any potential robber's ears. Well, they can't have mine.

When black pundits and politicians are not affirming images of violent "black males," they are accusing whites of racism for believing them. In fact, most middle-class blacks are also terrified of young black males. Educated civilians and journalists of all colors reflexively note the "rule" about not looking "anyone" (i.e., black males) in the eye. However, the times that I have gotten hurt—all since 1991—were almost always when I *did not* stare down a criminal. (Subway muggers will rarely undertake anything without first landing a sucker punch, or otherwise getting the drop on a mark.) Playing on white fears, even black male noncombatants harass whites. Calling their bluff enrages them, whereupon they hope aloud for assistance from real "mopes" (cop talk for criminals).

Strangers bond or split over crime stories. Arresting two would-be robbers while off-duty in Brooklyn, a white cop saw his attackers cop pleas to misdemeanors and do two days of community service. A black mother from Far Rockaway complains that the police refused to arrest the 17-year-old black girl who had slashed her daughter's chest. Working-class, black female "subway buddies" tell of unreported muggings. Yet middle-class black women I meet deny they are in any danger, and defend the black men who routinely attack black women as the victims of racist police.

Expressing upper-middle-class whites' desperate hope for appeasement, the *New York Times* portrayed Smith/Mulocko as a man of principle, the Harlem Massacre as born of economics, not racism, and has misreported stories, in its search for violent crimes it could attribute to whites.

Often marked by "shank"-scarred faces and arms, and sporting jailhouse muscles, the black, and increasingly American-born "New Yorican" and "Dominicanyork" criminals in question were usually raised by mothers who neither wed nor worked. Of 7.5-8 million New Yorkers, 1.4 million are on the dole, including 300,000 whom democratic socialist Mayor David N. Dinkins (1990-1994) moved onto generous, federally funded "supplemental security income," in cooking the books for the 1993 election.

Seeking to lure business back to the city, Mayor Dinkins' police commissioners, Lee Brown and Raymond Kelly, began reporting crime "creatively," even by New York standards. Liberal Republican Mayor Rudolph Giuliani's former commissioner, William Bratton, has evidently continued this practice. Last October 11, the *Daily News* published a memo by Deputy Inspector Anthony Kissik, commander of The Bronx' 50th Precinct, which merely formalized the city's unwritten policy of "defining down" many

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violent attacks into misdemeanors or no crimes at all. At the other extreme, on January 29, *Newsday*'s Leonard Levitt charged that the city had failed to disclose a recent double-rape, a shooting homicide, and the fatal shooting of a car thief by a cop. Such nondisclosures mesh with my own experience of a shooting that officially never occurred on the A train last December 8. On February 8, NYPD Spokeswoman Officer Kathy Kelly insisted to me, "There's no shootings on the eighth."

The *crime report reduction* policy has enjoyed its greatest success with those whose knowledge of crime is limited to press releases. In the December 1995 *Commentary*, Irwin Stelzer celebrated a poll showing that 41 percent of residents believed the city was safer. Most such "suburban urbanites" live in buildings with 24-hour security. Some ride the subways only during rush hour, others pay through the nose for segregated, slow-moving taxis, and yet others drive to work.

The safest areas, however, are self-reliant, white, and immigrant working-class neighborhoods, such as Brooklyn's Bensonhurst, where I lived from 1986-94. For 30 years, activists have hindered police in black areas with trumped-up charges of "excessive force" and "racial insensitivity" based on the premise that no white officer may arrest a black suspect. In truth, white cops are often guilty of *excessive restraint*. When you handcuff the police, people die. Last New Year's Eve in Sunset Park, Brooklyn, my Puerto Rican host's patrolman son observed that "in a rough neighborhood, you gotta be rough with the people. Either you're gonna be in charge, or they're gonna be in charge."

Former Commissioner Lee Brown's PR gimmick, "community policing," portrayed cops in free-fire zones as social workers. Commissioner Bratton's only real improvement, the crackdown on "quality-of-life" offenses (e.g., panhandling, public drinking, and urination) is being undermined by left-wing judges. On January 10, the *Daily News*' Miguel Garcilazo noted a state court report's finding that "nearly 70 percent of all desk appearance tickets issued by police are either dismissed [in court] or that recipients never show up in court." Bronx DA and former judge Robert Johnson is dismissing 25 percent of the summonses, *before* they ever get to court.

Judicial incompetence is so commonplace here that federal Judge Harold Baer had to outdo himself to gain national notoriety with his decision in favor of some drug dealers last January. Police had observed a car with Michigan plates slowly circling a block in upper Manhattan's Washington Heights area again and again, at 6:00 A.M. It finally stopped in front of an apartment building, from which four young black men came out, and wordlessly packed two duffel bags (containing 34 kilograms of cocaine and two kilos of heroin) and then, depending on whether you believe the confessed drug courier Carol Bayless or the cops, either walked away or ran. Volunteering that she had made over 20 such trips since 1991, Michigan resident Bayless alternated between pleading that drug money was her "only means of survival" and bragging that she planned on buying a new Pontiac Grand Prix with her $20,000 courier pay.

Judge Baer ruled that the $4 million in cocaine and heroin police had seized from the duffel bags were the fruits of an illegal search in violation of the Fourth Amendment. Despite accepting the officers' claim that the men had run away upon spotting them, Baer noted that since police were known to be "corrupt and violent" in Washington Heights, it was only natural for locals to run away at the sight of them. In the ensuing cause célèbre, even many left-wing journalists deserted Judge Baer. Critics noted that Baer, who lives in the luxurious Carnegie Hall district, had apparently confused the Heights' relatively clean, "3-4" precinct with Harlem's corrupt, "dirty thirty." In the February 5 *New York Post*, Jack Newfield quoted Detective Jerry Giorgio as insisting of Judge Baer, "He was writing out of pure fantasy and ignorance. He referred to this neighborhood as a black community, but it is predominantly Dominican."

Initially calling prosecutors' attempts to change his mind a "juvenile project," Judge Baer finally yielded to intense pressure from none other than Bill Clinton, rescinded his initial decision, and allowed the seized drugs to be entered as evidence.

Cop-bashing judges have lots of helpers. Since the Civilian Complaint Review Board (CCRB) went all-civilian in July 1993, complaints against "the job" have risen 50 percent. While keeping its telephone number unlisted and its findings secret, the CCRB's supporters seek the independent investigative powers of a counter-police. Last spring, CCRB staffer Lizette Navarro was caught making false "911" calls, reporting nonexistent "assaults in progress" at a West Village gay bar. (Only Navarro was fired, and neither she nor her boss was arrested.) Speaking with me last February 13, pro-Dinkins CCRB spokesman Joe Catrambone denied that the board has an anti-cop bias, and blamed the rise in civilian complaints on an "in-your-face" attitude he said Giuliani and Bratton had instilled in police. The Navarro case raised the specter of a gay activist-CCRB conspiracy to set up officers. The cop-bashing, gay activist *New York Times* refused to grant the scandal even a cursory reference. Note that cop-hating gays are guaranteed a response to all attacks against them, as bias crimes.

Encouraged by Eric Adams (the leader of the segregated, black officers' fraternal organization), the Guardians, and by affirmative action, some young black cops are rankled by arrests of "brothers" for crimes against whites. A psychiatrist who screens Police Academy recruits laments, "It's incredible, the pressure to pass people, just because they're minorities. It's all racial. They push, push, push with people who are inappropriate and are often antisocial themselves." Black thugs, however, do not always return the solidarity. In October 1992, a black policeman was assaulted in front of Bedford-Stuyvesant's Medgar Evers College by a student he had caught smoking marijuana. Cop-hating Brooklyn Councilwoman Una Clarke and Evers' president got the student and his street scholar accomplices released the same night.

Prosecutors do what they can. In June 1993, an 18-year-old black girl, emboldened by her girlfriend and the ten black and Hispanic young men surrounding me, called me racial epithets before trying to "shank" me in the face with a scissors in Greenwich Village's West Fourth Street station. My bloody hand, a corroborating witness, and a satisfied crime-scene lieutenant failed to impress a young, white prosecutor named Kunkel. Admitting he only took taxis at night, Assistant District Attorney Kunkel thundered, "Because of you, two black girls spent a night in jail!" (He suggested I was a racist who swore out false complaints against blacks.) Upon hearing my story, a black bus driver who had fled Brooklyn for New Jersey asked knowingly, "Did you bring a lawyer?"

According to the Washington-based

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Sentencing Project in 1995, 32 percent of black men ages 20-29 were either in jail, or on probation or parole—not counting those convicts who had finished their sentences. In areas such as Brooklyn's East New York, Bedford-Stuyvesant, and Brownsville, and Queens' Far Rockaway, the number tops 50 percent. However, white Queens College sociologist Andrew Hacker urges black men to perpetrate *more* violent crimes against white men. Insisting that authorities conspire to incarcerate innocent black men (including O.J. Simpson!), he interprets racial attacks as acts of political rebellion, and advises those same authorities to go easy on black racists. Only 60 percent of all Bronx criminal juries hand down guilty verdicts (in contrast to a national rate of 75-80 percent). Bronx judges are even worse, with a mere 48.6 percent conviction rate in non-jury trials during 1994 and 1995. And yet, the D.A. Robert Johnson fought plea bargaining.

With black mopes nine times more likely to harm blacks than whites, racist jury nullification is self-destructive. As with white mopes who occasionally commit racial attacks against blacks, racism is but a pathetic rationalization for what violent people enjoy doing, irrespective of their victims' race.

But, what do I know? The influential Thank-God-I'm-Alivers on Manhattan's West Side struggle for gun control *and* for the release of convicted Philadelphia cop killer Mumia Abu-Jamal. (Having courageously routed smokers from public places, they soldier on against a Chinese restaurant distributing take-out menus in co-ops, and the proliferation of social service agencies in their own backyard.)

Many cops unofficially support citizens' right to self-defense. One spring afternoon in 1990, I ran into three "uniforms" from Staten Island in the East Village. They had just swept some black "peddlers," whose real business was breaking into cars in the adjacent parking lot. After some good-natured ribbing back and forth, the sergeant asked where I kept my (illegal) gun. When I nudged the leather attaché bag at my feet, he advised me, "Be careful, you don't get the bag stolen on you." I was too embarrassed to admit that I didn't have a gun.

New Jerseyans may defend themselves with mace and tear gas. In early 1995, however, a 42nd Street store manager and his assistant told me they were jailed for three days by William Bratton's police, for the sales of mace and tear gas that Lee Brown had tolerated. And pistol permits are awarded only to those civilians who least need them.

Returning to the September 22 attack on me, the two black cops who happened onto me spraying "Jeff" with tear gas, after he had broken my nose, were not at all happy about arresting him and "Mutt." A sergeant had Mutt and Jeff booked for assault, attempted robbery, carrying an illegal weapon (a boxcutter), and possessing, with the intent to distribute, crack cocaine. He also had me handcuffed, charged with "possession of a noxious substance." Some white cops called me "Bernie Goetz," after the notorious subway gunman. I had heard that compliment before, when I was the guest of the Fifth Precinct in August 1993, following my similar handling of a big, white bully.

Is the city really safer? Neither Shirley, a 30-ish, black home-health attendant from Bedford-Stuyvesant, nor Yllumina-da, a 29-year-old Dominican fast-food worker from Sunset Park, buys the new line. Residents from Mott Avenue, Far Rockaway, to Alexander Avenue in the Bronx rage that drug dealers ply their wares in full view of police precincts. A 40-year-old, black cabbie in Far Rockaway insists, "The city's no safer than it was five or ten years ago. That's just Giuliani saying that, because he wants you to vote for him. It'll take 10 or 20 years to make this city safe again." You could hire more cops and fudge the facts all you want, but the city will not become safer until New Yorkers insist on living as citizens in a republic.

In Far Rockaway two days after the Harlem Massacre, a black teenager praised his 15 or 16-year-old girlfriend's rap, "I got my Tech to your neck." With the Commodores playing on the radio, I asked the 35-year-old cabbie driving me home what explained the deterioration of black music since the 1970's. He answered, instead, an unspoken question: "We stopped loving each other." It does not matter, if "we" meant "blacks" or "everyone." Once ignited, the flames of violent hatred will not be contained.

Nicholas Stix is the editor and publisher of A Different Drummer.

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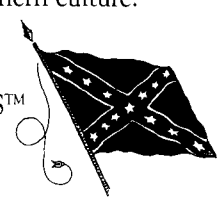

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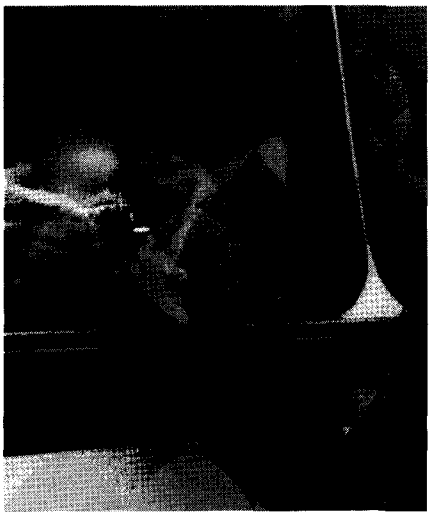
MEDIA

The Media War in the Balkans

by Russell Gordon



A Bosnian Serb soldier leaves his family for the front.

Family mourns Serb soldier killed in Battle of Vukovar, East Slavonia.

Photos by Russell Gordon

Bishop Lavrentije of Sobac performs holy liturgy at St. Lazar's Chetnik Church, near Bosnian border.

Members of the international press corps, particularly photojournalists, often define themselves as "objective observers," not participants or instruments in a conflict, just witnesses. But as the events in the Balkans have shown, this has not always been the case.

For five years the West has been bombarded with images of brutality in the Balkans, most of it attributed to one side, the Serbs. By focusing on particular events or interpretations of them, the common conclusion is that the Serbs were indeed the culprits. U.N. Secretary-General Boutros Boutros-Ghali (quoted by Peter Brock, *Foreign Policy*, Winter 1994), hinted at the problem when he said, "Today, the media do not simply report the news. [The media] has become part of the events it covers. . . . Public emotion becomes so intense . . . the problem may become simplified and exaggerated."

Understanding the conflict in the former Yugoslavia and the role that foreign powers and the media played requires a deeper understanding of the complex regional history and recent events than that portrayed in the mass media. During the late 1980's, the United States diplomatically maneuvered for the breakup of Yugoslavia. Croatia seceded in 1991 and persecuted ethnic Serbs. When ethnic Serbs further seceded and were assisted by the Yugoslav military, only the Serbs were labeled as "aggressors" for "attacking Croatia," not Croatia for seceding or the United States and Germany for assisting in the U.N.-member nation's demise. Subsequently, only the Serbs were isolated from the world by sanctions and embargoes, which included embargoing information. Across the border in Bosnia, Islamic fundamentalist leader Alija Izetbegovic pushed for independence. The Bosnian Serbs refused, fearing Muslim domination after 500 years of brutal Ottoman rule and the genocide of Serbs supporting the Allies during World War II.

In 1992, the EU sponsored peace talks with the leaders of Bosnia's three main ethnic groups to avert a looming civil war. An agreement was reached: the Cutilheiro plan would cantonize Bosnia into ethnic majority areas under a confederation, much like Switzerland. When Izetbegovic returned to Sarajevo, the American Ambassador to Yugoslavia, Warren Zimmermann, reportedly told him to renege on the agreement. Izetbegovic quoted Zimmermann as saying, "Why sign it if you don't like it?"

Izetbegovic reneged. Civil war broke out.

Much of the blame, therefore, lies not with the Serbs but with Izetbegovic, who goaded by America's regional agenda rebelled against the international community. Why is it that any traditionally Serb areas (some 64 percent of Bosnia, and almost 40 percent of the populace) were called "Serb-held," "so-called," or "self-styled Republic" and "rebel Serbs," by a press that claims objectivity, but which legitimized the creation of an ethnocentric regime of the most extreme elements of *one* plurality?

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The constant Serb shelling and sniping of Sarajevo was brutal, and inhuman. So was the Muslim government's shelling and sniping of Serb suburbs, a provocation which was often overlooked. On the other side of any frontline area around Sarajevo, countless Serb civilians have had family members killed by snipers or mortars. Along the famous Kasindolska Street, the vast majority of Serbs I spoke with had a family member killed in their own home, sometimes two. Is their suffering not worthy of a voice from a supposedly neutral press?

There is also the question discussed by seasoned observers of how much of the suffering in Sarajevo was caused by Serb shelling, and how much from the Muslim government's own policies, to create siege-like conditions to evoke Western sympathy and intervention. According to four-star USAF General Charles G. Boyd, formerly the Pentagon's number-two man in Europe, the Muslim government prevented water from being pumped into the city's water mains, both to create a stark image of residents lining up for water under sniper and mortar fire and to enable local officials to resell U.N. fuel donated for water distribution.

Moreover, according to General Boyd, the U.N. reported only 324 violent deaths in Sarajevo in 1994, while the Muslim government alleged "continuing genocide." Indeed, many have been killed by Serb actions, but what accounts for the thousands of grave markers around Sarajevo? Perhaps investigating the human-wave offensives of the Bosnian Muslim government against heavily entrenched Serb machine gun and mortar positions might give a clue. Journalists were banned from these offensives, but the Muslim government acknowledged heavy losses. Serbs told me of mowing down thousands in the three-and-a-half year conflict.

Muslim forces regularly shelled the Sarajevo airport and shot at relief flights to halt humanitarian aid and to increase black market prices. Most fire was blamed on the Serbs. (The role of the black market in continuing the war should not be underestimated, nor its control by the highest levels of administration on all sides, to the detriment of the populations they claim to lead). The Muslim government was supposed to demilitarize "safe areas" such as Sarajevo, under U.N. resolution, but Muslim forces often fired mortars and sniped specifically from civilian buildings and areas, to draw Serbian fire. When the Serbs responded, either to knock out the position or in retaliation (and in great excess, as was their policy), the international press and a ready-made bloodbath for which the government's press releases could flaunt as proof that they were forever the "victim of Serb genocide and aggression."

Even more grotesque was the Muslim government shooting at its own people when Serb fire was not available, particularly at crucial times when the international community was making policy decisions for the region. High-ranking military and diplomatic officials and UNPROFOR personnel from several countries reported that the Muslims were sniping from the Kosovo Hospital, Bosnian Parliament building, and other locations: Was it coincidence that reporters and photographers were so often at hand, or has the press become an unwitting player in a new, media-wise warfare?

Several of the highly publicized incidents, including the assassination of journalist David Kaplan, the "breadline massacre," the sniping on a refugee bus filled with toddlers, and the Markale market massacres of February 5, 1994, and August 28, 1995, upon further investigation have been found to have possibly, or in some cases certainly, been committed by Muslim forces, often against their own people. But the results of these investigations are seldom publicized. What matters are first impressions. Many of these staged events yielded the desired results for the Bosnian Muslim regime: condemnation of the Serbs, and outside military intervention.

Manipulation in using images to support one side's claims has been significant, and throws into question the integrity and independence of the visual news media. I have had Serbs in East Slavonia show me photos of family members slaughtered by Croatians, and when Serb journalists sold videotape to a major network of the bodies and carnage left when the Croats were routed by Serb forces, it was broadcast as *Croats* murdered by *Serbs*. Similarly, Serb funerals around Sarajevo have been filmed and photographed under Muslim fire, only to be captioned as *Muslim* funerals under *Serb* fire. One would think that the abundance of crosses and the presence of an Orthodox priest could be differentiated by such a seasoned press corps, or perhaps some of the changes have, from the beginning, been at the editorial level.

The atrocities in the Balkan conflict—well documented by U.N. personnel and more objective journalists—are probably close to even. That Serb brutality was exacerbated by Croatian and Bosnian Muslims' initial ethnic cleansing of Serbs is hardly irrelevant. As some Serbs said to me, the more the West demonized them, the less reason they saw for restraint. If the international press corps wishes to maintain a veneer of objectivity and credibility with a confused and skeptical public, perhaps they should equally investigate the human rights violations and atrocities inflicted on those deemed as "unworthy victims."

For much of the Western public, the Balkan conflict seemed confusing and complex. Perhaps this is due to the lack of regional experience among foreign correspondents. Covering the conflict "forced reporters to act as scouts without compasses in a completely unknown terrain," wrote Sylvia Poggioli of National Public Radio. "Reporters have had to wade through the complex cultural, historical and political geography [of this conflict]," she said, and "very few had the necessary instruments." Poggioli concludes: "Journalists . . . need new compasses if they are to be a reliable link between facts on the ground and public opinion."

This is not a vindication of the Serbs' cruelty; it is a clarification of culpability, calling a spade a spade. We are entering an age of sophisticated propaganda, both from technology and strategy, beyond the "good vs. bad" scenarios of newsreels a half-century ago. We are not photojournalists when we take pictures of brutality; we are merely photographers whose images can be used in any manner to further a party's geopolitical goals or economic agenda. With media mergers, and consequently less real diversity of opinion in the mainstream American press, journalists of all stripes will have to be more aware and educated about the regions they cover.

A complex truth cannot be captured in a sound bite or visual image. A picture can be worth a thousand words, but often it has proved just rhetoric. And when editorial policy allows itself to be co-opted by a national agenda, both democracy and freedom of the press are at risk.

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RELIGION

Liberals Rediscover Religion—Again

by Alan Pell Crawford

Those earnest "neoliberals" at the *Washington Monthly* have again gotten religion, which, every few years, seems to be their wont. The putative convert this time is Amy Waldman, who writes that the left (her term) has needlessly neglected to "draw on a religious tradition" when trying to persuade others to support its political program. The rest of Ms. Waldman's argument, however banal, reveals a lust for power as frightful as anything that the dreaded Christian right has put forth.

Liberals, neoliberals, and leftists have long reeled aghast at the tactics of the Moral Majority and Christian Coalition but failed to realize that they might profitably employ such tactics themselves, she argues. Since many of "liberalism's core values—whether help for the downtrodden or support for peace—derive from the Judeo-Christian tradition," liberals should use religious imagery in their lobbying efforts, quote Scripture in fundraising letters, and even trot out presentable parsons or pliant rabbis to plead their case. Mere quibbles over matters of belief need not prevent liberals from drawing on the rich historical and cultural tradition of religious faith. "For whether or not you believe Jesus Christ was resurrected, He still offers a model for a life of radical social justice," she reminds her fellow lefties. "Whether you believe God or men wrote the Bible, it too speaks to how we live." (No kidding.)

If Ms. Waldman were in less of a rush for liberals to impose their values on the rest of society—as the Christian right is accused of doing—she might consider this possibility: some liberals might "disdain religion," as she puts it, for a very good reason. If they happen to be self-respecting atheists, agnostics, or "secular humanists," they may not wish to pander to churchgoers in so cynical a manner as recommended here.

As remarkable as it may seem, there are still some people, believers and nonbelievers alike, who regard the Resurrection, for example, as a weighty matter that cannot be dismissed as airily as Ms. Waldman would have them do. "So what if Jesus wasn't raised from the dead?" she seems to say. "If it will help us defeat the teachers' unions, let's act like He did!"

But there is another reason why persons on the left might be reluctant to ape Pat Robertson. As serious in their Christianity or Judaism as their colleagues on the religious right, many devout lefties would deem it a violation of their faith to presume that it gives them a keener grasp of monetary policy than their unchurched neighbors. After all, many Christians and Jews disagree about the temporal consequences of cutting the capital gains tax. Humbled by their faith, they would not dare claim that God has disclosed His view of minority set-asides to them.

There is nothing neo- in Ms. Waldman's neoliberal case for religion, of course. Every few years secular intellectuals "rediscover" religion, almost always concluding that it must be a good thing because it seems to make better citizens of the faithful—better liberal Democrats, in this case. The neoliberals at the *Monthly* seem to believe that the imitation of Christ is important because it will make us all more like Bobby Kennedy.

Susan Sontag—no right-winger she—once derided the attitude of such *philosophes* as "religious fellow-traveling." What intellectuals always want, Sontag wrote in the early 60's, is the personal, political, and societal advantages of religious faith without actually having to believe in anything. They are for "religion" in a general sense, which, Sontag noted, is of course meaningless. You cannot practice "religion" in general any more than you can speak "language" in general; you speak English, French, or Farsi; you practice Catholicism, Buddhism, or Santeria. You're either a snake handler or you ain't.

Taking matters a step further, liberals like Ms. Waldman seem less "for" religion than for what it can do for her and her fellow neoliberals in their quest for political power. The left, she writes, "seems to have forgotten how *powerful* a force religion is." The "proof of the *power* is in history." Religion's "*power* to transform American society" has been established throughout our history.

To harness this power, liberals should learn from Martin Luther King, Jr., whose significance lies not in his moral authority, grounded in his Christian faith, but in his considerable facility as a rabble-rouser. "The *power* of religion, as anyone who has heard King's speeches can testify, is that it touches not reason but emotion—which is exactly why liberalism, with its Enlightenment roots, is so skeptical of it," Ms. Waldman writes in this blueprint for manipulation. "Emotion has *power*—real, raw *power*—to change hearts and minds in a way that facts do not. Which is exactly why liberals should use it, not fear it." (Italics added.)

This is a call to demagoguery, plain as day. It is more than that, however. It is also a heresy, to dust off a word that does not get sufficient use nowadays. Devout persons of the left or right do not and cannot treat their faith as Ms. Waldman suggests. They are unable or unwilling to regard their most deeply held beliefs and practices as mere weapons in some far more awesome undertaking, like the battle to ensure funding of Americorps or to discredit Steve Forbes' flat tax.

Half a century ago, the now-forgotten theologian J. Gresham Machen, a Baltimorean and friend of H.L. Mencken's, belabored the civic-minded men and women of his own day for an attitude toward religion identical to Ms. Waldman's—and to that of neoliberals and many neoconservatives today. "Even hard-headed businessmen and politicians have become convinced that religion is needed," he wrote. "But it is thought to be needed merely as a means to an end. We have tried to get along without religion, it is said, but the experiment was a failure, and now religion must be called in to help." Religion is "discovered after all to be a useful thing. But the trouble is that in being utilized religion is also being degraded and destroyed. Religion is being regarded more and more as a means to a higher end." Machen, as a Christian, found such an attitude appalling—and heretical.

However noble these ends might be, "it is perfectly plain that the Christian religion cannot be treated in any such way. The moment it is so treated it ceases to be Christian. For if one thing is plain it is that Christianity refuses to be regarded as a mere means to a higher end." Human relationships—that of man and wife, parent and child, or citizen and state—"exist for the sake of

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Christianity and not Christianity for the sake of them. Christianity will indeed accomplish many useful things in this world, but if it is accepted in order to accomplish those useful things, it is not Christianity."

Ms. Waldman, of course, does not even ask us to "accept" Christianity or any other faith—only to *appear* to accept religion to advance her dubious neoliberal nostrums. She calls on her political allies to use the language and imagery of other peoples' faiths for worldly gain. To do so is to trivialize religious faith, cheapen the political discourse, and demean the very causes she seeks to advance.

Such utterances reveal more about their utterer and her inability to understand the nature of faith than anything else. One is tempted to tell Ms. Waldman what Mark Twain said to his wife when he heard her swearing: "You know the words, my dear, but you don't know the tune."

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LAW

Plessy v. *Ferguson*—One Hundred Years Later

by William J. Watkins, Jr.

One hundred years ago this May, *Plessy* v. *Ferguson* was decided. The Supreme Court's 1896 decision upheld Louisiana's law that required all passenger railways operating within the state to have "equal but separate accommodations for the white and colored races." Over the years, the import of the decision and public perceptions of such state regulations have been misunderstood and at times purposely distorted. Scholars have described the decision as the incarceration of blacks in "the *Plessy* prison." The real prison, however, holds all Americans and was built on an unwillingness to examine objectively this important period in American history.

Though *Plessy* receives enormous attention today in classrooms and in discussions of race relations (especially Justice John Marshall Harlan's dissenting opinion invoking the concept of a color-blind Constitution), the decision was largely ignored for many years. The newspapers of the day that did not disregard the Court's pronouncement gave it but scant attention. The *New York Times*, for instance, barely mentioned *Plessy* in its weekly column on railway news.

Routine affirmations of state regulations were hardly newsworthy in the 1890's. The War Between the States did change the nature of state and national relations, but the majority of citizens still accepted that the states were sovereign within their proper sphere.

Separate accommodations, rather than being vehicles for white supremacy, were viewed in a different light than they are today. Several black legislators involved in earlier Reconstruction governments actually sought to enact legislation for separate but equal accommodations. Robert Smalls, a black congressman from South Carolina, declared in 1884 that he had "no objection to riding in a separate car when the car is of the same character as that provided for white people to ride in." Booker T. Washington applauded Alabama's railroad commissioners for instituting separate but equal accommodations just one year before *Plessy* and made it clear that "it is not the separation that we complain of, but the unequality of accommodation." Blacks, who purchased first-class tickets and were subjected to the filth of the smoking car or other substandard accommodations, had good reason to remonstrate. Long trips in such conditions were not just uncomfortable, but hazardous to one's health.

In spite of a justice system that was frequently hostile to them, blacks turned to the courts to demand equal accommodations. It was quite elementary for them to prove that a seat in the baggage or smoking car was not equal to that of first or second class. The success of black plaintiffs enshrined separate-but-equal in common law. The Supreme Court recognized this in 1878 when it upheld separate-but-equal in the common law of common carriers in *Hall* v. *Decuir*.

Clearly, *Plessy* was not the bombshell that it has been so recently billed. State and federal courts had consistently upheld separate-but-equal for years. Lower courts had even declared that separate-but-equal did not conflict with the Civil Rights Act of 1875, which prohibited racial discrimination in access to public accommodations (and was declared unconstitutional in 1883).

Modern accounts of *Plessy* seldom mention that blacks often fought for separate-but-equal in legislatures and courts. Because scholars find it difficult to explain the acceptance of such segregation, they normally conclude that conditions were so bad for blacks that almost anything was considered an improvement. In many cases this was no doubt true. The freedmen faced much hostility and very difficult circumstances.

However, such an explanation ignores, in the words of Eugene D. Genovese, "that black nationalism represents an authentic tendency within black America, rather than a pathological response to oppression." A nation, united by common folkways and culture must, to some extent, separate itself from the cultures of rival nations to remain intact. This has been extremely challenging for black America, considering the subjugation and the alien culture forced upon them in slavery. And though separate accommodations certainly are not necessary for the preservation of culture, the acceptance of the need of some type of separation to preserve a culture explains why it was tolerated.

Black attitudes at the time are much easier to understand if one remembers that much of the black intellectual environment in the years before and after *Plessy* favored some sort of separation. Many blacks, for instance, were involved in various "back to Africa" movements. Before the War Between the States, the Friendly Society for the Emigration of Free Negroes, founded by a free black shipowner, took a number of families back to Africa. Martin R. Delany, coeditor with Frederick Douglass of the *North Star*, explored the region of the Niger River and signed agreements with several African kings for a settlement of emigrants from America. More noteworthy were the activities of Bishop Henry McNeal Turner and his calls for black emigration in the years between the War Between the States and World War I.

Certainly not all blacks favored emigration. Most only wanted to be left in peace in America to farm and raise their children. But among those who desired

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to remain in North America, there was still an element of separatism in their thinking. Booker T. Washington, the undisputed leader of the black community at the time, declared that the races could be "as separate as the fingers" in a system that accorded blacks equal treatment in their legal relations in the private economy.

Other blacks and white progressives tried to supplant separatist tendency in the black community. W.E.B. Dubois and the NAACP provided virulent criticism of Washington's emphasis on economic freedom rather than social equality. After Washington's death in 1915, Dubois and his cohorts set their sights on Marcus Garvey and his Universal Negro Improvement Association's (UNIA) calls for black autonomy and economic self-reliance.

Today, despite the post-*Brown* push for forced integration vis-à-vis judicial activism and broad legislation, black nationalism is just as strong as it was in the days of Booker T. Washington and the Garvey movement. The total failure of integration to improve the quality of life for the majority of black Americans is no doubt responsible for the resurgence of nationalism within the black community.

The acceptance of Louis Farrakhan by the black community during the Million Man March underscores black nationalistic aspirations today. The Nation of Islam itself, of course, was founded by Elijah Muhammad to build a separate black nation paid for by white reparations for slavery. Though Farrakhan avoids blatant calls for total black separation, he nonetheless declares that blacks cannot "integrate into white supremacy and hold our dignity as human beings." And since Farrakhan sees white supremacy as "the idea that undergirds the setup of the Western world," he is in reality saying that blacks cannot integrate into American society, which is a branch of Western civilization.

The popularity of Islam among blacks (not necessarily the Nation of Islam) is emblematic of this rejection of Western culture. Many blacks see Christianity as a "slave religion" and seek a substitute. By the year 2000, Islam will become the second largest religion in the United States due to black converts and immigrants. Black Christian nationalism, with a black Madonna and Christ, is also an alternative for many blacks to mainstream Christianity. A main tenet of black Christian nationalism is to teach "the necessity for separatism," along with the path to eternal salvation.

Other calls for some degree of racial separation are just as loud as that of the separatist religious element. Interracial adoption, for example, is most ardently opposed by black social workers. The National Association of Black Social Workers unabashedly declares that "black children belong to black parents." They rightly fear that interracial adoptees will lose contact with their heritage and not develop culturally and psychologically as they would in a black family.

The strongest front on the integration backlash is, fittingly, school desegregation. Across the nation, black parents are demanding a return to neighborhood schools no matter what their racial composition. In Cleveland, the local NAACP has met strong opposition from within the black community to its attempts to force cross-district busing. "I did not give the civil rights attorneys permission to holocaust my children and get paid for it," says black parent and busing opponent Genevieve Mitchell. Blacks like Mitchell are rejecting the notion that black children need the company of white children to learn. Recent studies show that black academic performance is the last reason why anyone should favor policies of integration.

This change of attitude in the black community, according to Aaron Gray, the black President of Denver's School Board, is because "pre-1954 was separate and unequal. The difference is today that you can step into an African-American school and you can see the same amount of resources that are provided to a majority Anglo school." Even Supreme Court Justice Clarence Thomas has defended black schools: "Because of their distinctive histories and traditions, black schools can function as the center and symbol of black communities, and provide examples of *independent* black leadership, success, and achievement."

Gray and Thomas's words contest the Warren Court's assertions in *Brown* and the 40 years of judicially sponsored social engineering that followed the Court's 1954 decision. They signify black abandonment of the opiate of integration that has caused so much damage to American society.

The 100th anniversary of *Plessy* v. *Ferguson* is a proper time to recognize the existence of healthy black nationalistic tendencies. Though *Plessy* was at most a footnote in history for many years, it has now unfortunately become a symbol of the need of complete integration. Justice Harlan's calls for a color-blind Constitution have animated universalists to instigate an all-out push for a utopian society.

Such good intentions drive the likes of the Institute for Justice, as they and their kindred organizations litigate to end the use of race as a criterion in state adoption decisions. Good intentions drive civil rights lawyers as they attempt to force more busing and court supervision of local schools. Fortunately for blacks, these good intentions to undo perceived past wrongs are meeting with stiff resistance from within their own community.

Only when black tendencies for various degrees of separation along with the same tendencies found in white America are accepted and respected can we free ourselves from the fetters of the modern

Dinosaur

by Richard Moore

Old enemy, my father,
now decades dead, my inspiration rather:
went your own way and to your stubborn bent
sacrificed all your longings to belong,
imagining the whole God-cursed establishment
just might be wrong.

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era. By ignoring the needs of both whites and blacks to preserve their unique cultures, policymakers threaten both groups. Blacks, however, will stand up and defend their institutions, while whites sit passively by.

One hundred years after the much-maligned *Plessy* decision, black nationalism is as strong as ever. Whites, on the other hand, do little more than mumble platitudes about a nation dedicated to a proposition when given the opportunity to defend their culture. It does not take much guesswork to figure out which of the two nations will survive another 100 years.

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POLITICS

Playing Politics With Pericles

by Nicholas J. Pappas

Somewhere toward the middle of *The Book of Virtues: A Treasury of Moral Stories*, William Bennett has included "The Funeral Oration of Pericles" from Thucydides' *The Peloponnesian War*. To Bennett (or to his ghostwriter), this "speech reminds participants of democracy two and a half millennia later that the character of the state is determined by the virtues of individual citizens"; it is a paean to civic virtue and teaches the importance of citizen responsibility.

If you remember the speech from school days, you probably recall it as a nice piece of oratory in praise of the soldiers, sailors, and marines killed in the first year of the war. Rereading it in Bennett's book does evoke an uplifting feeling. But you have to grow up sometime, and it is useful to ponder what Bennett does not pose: whether Pericles represents the highest ideal of democratic leadership or a general societal illness that was then infecting Athens.

It is true that during the Age of Pericles (mid-fifth century B.C.), "the Athenian empire reached full development militarily, commercially, and culturally." Militarily, development meant becoming the hegemon of an alliance system forged to fight the Persians from c. 490-448 B.C. Or, to use the blunter terms of Pericles himself, "what you hold is, to speak somewhat plainly, a tyranny; to take it perhaps was wrong, but to let it go unsafe." This military development allowed the Athenians to control the sea lines of communication in their thalassic world, bully allies who were in arrears on their dues, and use the riches of their far-flung holdings to build public gymnasia and theaters for the people who manned the ships. The essence of her commercial development was the use of sea power to satisfy the desires of the masses.

Culturally, in the years between the Persian and Peloponnesian wars, Athens grew up. During the Persian Wars, the Athenians were motivated by fear of their enemies, friendship for each other, and devotion to the gods, and they defined justice as the painful process of finding righteousness in difficult circumstances. By the time of Pericles, the rustic simplicity of Athens had been replaced by a cosmopolitanism motivated by fear, honor, and interest. Justice now became submission of the weaker to the stronger. Pericles, the head of state, must take some credit for this major change. What shall we think of him?

In *Gorgias*, the old realpolitiker Callicles asks Socrates whether he has not heard that Themistocles, Cimon, Miltiades, and Pericles were all good men. Socrates replies:

> Yes, Callicles, they were good men, if as you said at first, true virtue consists only in the satisfaction of our own desires and those of others; but if not, and if, as were afterwards compelled to be acknowledged, the satisfaction of some desires makes us better, and of others, worse, and we ought to gratify the one and not the other, and there is an art in distinguishing them—can you tell me of any of these statesmen who did distinguish them?
>
> *Callicles*: No, indeed I cannot.

Socrates then confronts Callicles with the observation that Pericles and the other "great" statesmen were the real authors of Athens' calamities. If they are to be praised for building harbors, docks, walls, and revenues, let them be so. But they likewise are to be damned for "leaving no room for justice and temperance" and causing the "swollen and ulcerated condition of the State."

Did Pericles in his funeral oration give Athens' citizens a genuine picture of civic virtue and citizen responsibility or a facade to justify their greed? William Bennett's editing of the speech leaves out a key segment that demonstrates how prepared Pericles is to substitute the order of human power for the power of the gods. In this section Pericles calls Athens the "school of all Hellas" whose renown is so great that her assailants have no occasion to blush when beaten, and even her subjects do not question her title to rule. The Athenians' pathos is at its peak here, as Pericles makes a desperate attempt to reconcile necessity with justice. But he cannot stop with this equation. Pericles seems compelled to take the fatal step that turns his speech into an assault on the order of the gods:

> The admiration of the present and succeeding ages will be ours, since we have not left our power without witness, but have shown it by mighty proofs; and far from needing a Homer for our panegyrist, or others of his craft whose verses might charm for the moment only for the impression which they gave to melt at the touch of fact, we have forced every sea and land to be the highway of our daring, and everywhere . . . have left imperishable monuments of evil and of good behind us.

Homer and the others of his craft represent what we might call the "Order of Zeus," the poetic and philosophic articulation of the spiritual experiences of the Hellenes from Homer through Hesiod to Plato, as the truth of the myth becomes the truth of the philosopher. In contemporary terms, the Athens of Pericles has reached that point where there are two strata of thought, each contending for the soul of the city. One, represented by Socrates, recognizes that the Homeric myth no longer is authoritative, but must be replaced by the theology toward which the myth had always pointed. The other, represented by Pericles, would be called the "fact/value dichotomy." "Truth" is determined by the methodology of physical science, whereas "justice," "love," "right," and "beauty"

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would be demoted to "feelings about values" which are neither true or false but relative to time, place, and culture. The conclusion of all this is that justice is the advantage of the stronger.

The formulation of this is found in the objections to justice of Glaucon and Adeimantus in Book II of Plato's *Republic*. Briefly stated, their argument is that justice is merely a convention; that we do just things against our will; that the just man suffers while the seemingly just man prospers; and that since there are no gods, we should be as "unjust" as we can. In Pericles' speech, this formulation banishes the poets and celebrates what the stronger have done ("imperishable monuments"). In the field of pragmatic action, the ultimate logic of the funeral oration is reached in the Melian Dialogue some 15 years later. In response to the Melians' accusation that the Athenians' threat to destroy them is unjust, the Athenian representatives answer:

> Right as the world goes, is in question only between equals in power, while the strong do what they can and the weak suffer what they must. . . . Of the gods we believe, and of men we know, that by a necessary law of their nature they rule wherever they can.

The Periclean pathos finally becomes incarnate in the slaughter of the Melians, an island people who only wanted to remain neutral. Xenophon tells us that the Athenians became so hated by the rest of Hellas that, after the naval defeat of Athens at Aegospotami in 404 B.C., only a Spartan veto prevented the victorious coalition from butchering the Athenians in retaliation for what Athens had done at Melos.

Mr. Bennett tells us that during the Age of Pericles, "Athenian democracy flourished." According to a political tract included in the works of Xenophon, this meant that Pericles allowed Athens to "let the worst people be better than the good." The "Old Oligarch" who wrote *The Constitution of the Athenians* did not like the Athenian democracy but praised its leaders for preserving it so well. Under Pericles, considerations of power became more important than considerations of piety and justice, so it was only natural to let the poor and the masses have more than the high-born and wealthy "for the reason that it is the people who man the ships and impart strength to the city; the steersman, the boatswains, the sub-boatswains, the look-out officers, and the shipwrights—these are the ones who impart strength to the city far more than the hoplites, the high-born, and the good men." We can imagine that Pericles' audience was not unaware that he made their wealth, theater-going, and public gaming possible. Pericles, in turn, knew that his power was unassailable as long as he controlled the Piraeus, the seaport suburb and hub of Athenian democracy where the masses on which he based his power dwelled.

Plato's *Republic* begins on a prescient note, as Socrates and Glaucon go down to the Piraeus to see a festival. Down in the Piraeus, they will find freedom—the kind of freedom without virtue nurtured by Pericles. There Socrates will form a little society of friends at a dinner party. The friends will learn the message that could save Athens: God is without fault; our problems are of our own making. That message of genuine citizen responsibility and civic virtue will be unheeded.

What, then, are we to make of Mr. Bennett's portrait of Pericles? One possibility is that he is merely reiterating Thucydides' view of the man. Thucydides thought that Athens' troubles came when leaders less skillful than Pericles took the helm. Under Cleon and Alcibiades the Periclean rapier-like strategy of indirection and limit became a bludgeon that brought down the Athenian house. Our discussion of Socrates revealed that it took a person with "deep-seeing," with genuine insight into the etiology and cure of the sickness that the Periclean confusion of power with virtue and of pride with the will of the Gods caused, to put the blame where it really lay—in the architects of Athenian impiety and imperialism. Thucydides, like Bennett, simply lacked the conceptual tools of a Plato to diagnose what was occurring. Thucydides used the medical notion of a disease to analyze the war, but, in his hands, it was not much more than a metaphor to record the upheaval that was convulsing Hellas. A Socrates or Plato could be more like a real doctor—a practitioner who could recognize and treat illnesses of the spirit.

Almost simultaneously with the publication of *The Book of Virtues*, Garry Wills came out with his own interpretation of Pericles in *Certain Trumpets: The Call of Leaders*. In this very entertaining book, Wills raises the "Periclean type of leadership" to something like an ideal type. Franklin Roosevelt is Periclean—"here, at last, is a ruler who can, by sheer mastery, impose his views on the multitude." Adlai Stevenson was a man who "believed in the 'Periclean' ideal of leadership—that a man should be above the pressures of the multitude, telling people uncomfortable truths." Unfortunately, from Wills' perspective, Stevenson did not have the "right stuff" to find a common bond with the American people.

Perhaps the publication of these two books with remarkably similar views of Pericles is sheer coincidence. Bennett's portrayal of the Athenian statesman will appeal to neoconservatives, who equate American power and worldwide commitments with virtue or "values." As such, they are admiring the real value that Pericles is promoting. Rather than the virtue of responsibility, Pericles is celebrating the Spartan virtue of "savage valor": the ability to stand the sight of bloody slaughter and thus achieve a kind of immortality through one's reputation ("imperishable monuments"). If this is the national character neoconservatives are promoting, the republic is indeed dead.

A more disturbing query concerns the capability for "deep-seeing" that seems common to both Bennett's and Wills' books. As we have seen, even Thucydides was unable to perform the type of operation that would have resulted in Socrates' verdict on Pericles. The "scientific" method of Thucydides did not reach into the deepest recesses of the soul, where the womb of politics is found.

Is the appearance of *The Book of Virtues* and *Certain Trumpets* a symptom of a similar powerful disturbance in our own culture, which our elites feel but cannot ultimately understand? As Eric Voegelin writes, the process of moral corruption spreads from the public to the private sphere. It "begins with habituation to unjust action in affairs of state and ends with the dissolution of honesty, loyalty, and shame in personal relations." In Homer's *Iliad*, the heads of Mycenaean civilization are rotten; in the *Odyssey*, the fish has rotted from the head down. Is the United States somewhere in that process—with no one with the deep-seeing to tell us?

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The Hundredth Meridian

by Chilton Williamson, Jr.

Spring, Like a Lion

The cloud was no bigger than a puff of white smoke above the western horizon at a point equidistant between the Henry Mountains and the Book Cliffs. It was a nice cloud, a point of interest in an otherwise banal sky, soft blue paling around the edges. I tamped down the cookfire I had built in this official "no-fire zone" (penalty 500,000 U.N. dollars, ten years in a Park Service dungeon, or both), slung the daypack on my shoulders, and walked out of camp under a warm spring sun, taking care not to step on the cryptogramite that, according to the government 2,000 miles away in Washington, holds the whole of southeastern Utah together. The red sand warmed, the blackbrush opened into new leaf, and the snow line lifted toward the triangular peaks of the La Sal Mountains, 30 miles away across the Colorado River. Horseless in deference to Park regulations (penalty 20 million U.N. dollars, and/or life imprisonment in Boris Yeltsin's Siberia), I stepped out bravely in the direction of the overlook, where the walls of the 6,300-foot mesa between the Green and the Colorado close in a rocky point north of the convergence of the two rivers.

Admiring the desert wildflowers and cursing the Park Service's hippophobia, I walked for a mile or so without looking at the cloud. It was bigger now, about the size of the Goodyear blimp, and turning dark on its bottom. I forgot it in the pleasure of physical exertion, the warm sun on my back sending sweat between my shoulderblades under the thin cotton shirt, the jinking birds through the juniper trees, and the bottomless sky overhead, and when a breeze sprang up I pulled the shirt from my belt and let it in underneath. When I was barely a mile from the point the breeze stiffened to a light wind and I looked west again, where the cloud had dropped its benignant aspect. It was a storm front now, sweeping across the slickrock wilderness toward the Green River and the Sky Island, a blitzkrieg of wind and lightning extending 50 or 60 miles to the north and south. There was a rolled flannel shirt in the pack. I stopped long enough to pull it on

and button it, and reached the exposed point in a blasting sandstorm as the first fat drops of rain fell, steaming on the sun-charged rock. The rain turned to hail as I climbed below the rimrock, following a deer trail leading to a shallow overhang 2,300 feet above the Colorado running swift and green in its blood-colored trench. There was a view of the Abajo Mountains and Elk Ridge, Six-Shooter Peak and Lavender Canyon, and the Needles before veils of rain and hail blotted the expanse, cutting away the valley below and leaving me shallowly encased in rock and floating in the clouds. Lightning bolts struck overhead and flashed across the canyon bottoms as waterspouts poured with the runoff: falls of liquid mud and foam, bearing along sticks, cacti, and small rocks, streaking down the cliffs. I worked the pack from my shoulders, opened it, and peeled and ate an orange. Then, as it continued to storm, I lay down in a cramped position in my small dry space and took a nap. When I woke the rain had stopped. The sky was clearing, and wraiths of cloud rose among the rain-darkened rock columns above the river. Returning on the slick trail going up to the rimrock, I had to grasp at the rocks and bushes to avoid pitching backward into the abyss below.

In camp the sagging tent remained upright. My clothes were dry inside, the camp boxes intact. I restaked the tent and built the fire back to a defiant blaze before allowing it to burn down to cooking coals. The wind kept up that evening and throughout the night, and it was very cold. Several times I woke with the nylon walls billowing around me and the aluminum poles swaying, as if the tent were a great bird attempting to become airborne. At dawn my hair and beard were filled with the fine red sand, but when I crawled out I was still on the verge of the cliff, not at the bottom of it. The wind had subsided, but it continued to blow hard and cold from the northwest, where a shelf of gray cloud piled above the horizon. A spring blizzard I discovered, when I caught up with it later the same day.

Kemmerer lay under a foot of the heavy wet snow, and snow squalls blew throughout Easter weekend. The deep mud froze hard in the night, and thawed during the day to a thick gumbo. Fred Chambers called Easter morning from the ranch asking for help. He had been hauling water for the horses when the pickup became mired and sank to the frame in mud. Fred abandoned the truck and slogged the last several hundred yards on foot to the house, where he brewed coffee and drank the pot while he waited for Marcia to return from town in the Bronco. But when Marcia and Fred, using a tow rope, attempted to jerk the truck backward onto firmer ground, the Bronco stuck too, and Fred returned to the house to call me. Taking along ropes and a sheepherder jack in the Land Cruiser I drove to Twin Creek, where the Chamberses in muddy clothes waited on the creek bottom. We tried jacking up the rear end of the Bronco to lay cut sagebrush under the tires, but the big jacks sank in the wet clay without finding bottom in the bottomless road. So Fred attached one end of a nylon rope to the left rear leaf spring, while I advanced on him slowly in compound low. Almost within reach of the other end of the rope the jeep stalled out, sinking in mud above the axle as soon as its forward momentum ceased. "Well I'll be dipped in sh-t," Fred said. "Come on to the house, and I'll fix us a pot of hot coffee."

Fred telephoned Richard Lewis at the Lewis Ranch for emergency aid, and while the three of us waited for Richard to arrive with his big stock truck and a winch Fred recalled an incident from his youth as a boy of 15 or 16, back in Tennessee. He was being harassed at school by a much bigger and stronger boy, who had it in for him and was threatening to give Fred the beating of his life. Finally

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he jumped him in the playground and Fred, by a stroke of luck, managed to get the advantage. He knocked the boy against a wall and began to kick him in the groin and around the face. By the time they pulled Fred off the kid was a candidate for the hospital, and the principal summoned Fred to his office. The principal was an enormous man with round hulking shoulders and a huge paunch. "Hell, Fred," the principal said, "I don't know what I'm going to do about you. It looks like this is a case for the police. If that boy's parents want to press charges, I'm afraid you're in for a lot of trouble." "He's been laying for me for weeks," Fred told him. "It wasn't my fault." "Well, why did you have to keep kicking him? Why couldn't you just have knocked him down?" "Mr. Johnson," Fred said, "you maybe have never thought about it, being such a big guy. But a little guy like me has to think. If I get in a fight with that fellow every couple of weeks I'll maybe win one out of five fights, if I'm lucky. A little skinny guy like me has to give a big guy like that something to remember so he won't come back for more." "Well, Fred," the principal said, "it sounds to me like you have a point there. Now I tell you what I want you to do. When I start yelling I want you to shout and holler and maybe cry a little, and ask me to let up on you. And don't you ever tell anybody what we're going to do, OK?" Then Mr. Johnson took off his belt and started to beat on his desk with it until, Fred said, he thought he was going to knock it to pieces. "That'll teach you!" the principal yelled; so Fred began to holler and beg for mercy and shout that he was sorry and that he'd never get in a fight again. Then the principal quit beating his desk. He replaced the lengthy belt about his girth, and winked broadly at Fred. "You go now, son," he said. "I'll call this boy's parents and tell them I've fixed everything, and you're never going to bother their kid again." Fred was about to make another pot of coffee when he happened to look from the window of the trailer into the bottom. "Good *Lord!*" he exclaimed. "Richard's there already, waiting for us."

We ran the cable out and Richard Lewis winched each of the three vehicles from the mud onto firm ground while Fred, Marcia, and I stood behind the borrow pit and watched. "It almost looks like we knew what we was doing," Fred observed. Then Richard rewound the cable on the winch and Fred took his Thermos from the pickup seat and poured him a cup of black coffee. Marcia walked back to the house while the three of us, ignoring the snow squall, discussed pending business by the planning and zoning commissioners. Richard said he was going to inform the commissioners that the folks at Twin Creek were unanimous in favor of putting a trailer park in the area. Fred replied that he was going to take a can of white paint and paint the letters E L K on each of the Lewis cows, erect billboards along the highway (ONLY TWENTY MILES TO THE GREAT ELK SHOOT . . . ONLY TEN MILES . . . THREE MORE MILES), set up a ticket stand at the entrance to the Lewis ranch, and sell hunting permits to hunters from Salt Lake City.

When the snow squalls stopped the winds came. They howled for weeks out of the Southwest, pouring across the high desert country and removing the equivalent of five or six inches of rainfall from the ground, leaving it dry and hard as fired clay and the mountains stripped of snowpack. Toward the end of May I loaded the horses and pulled them up La Barge Creek to Scaler's Cabin, a disused guard station belonging to the Forest Service. From there, riding the gelding and leading the mare with the packs, I rode up the overgrown trail into the freshly greened wilderness of early summer.

At Fontenelle Lakes the grasses were pressed down, rank with the scent of bedded elk. West of the lakes Commissary Ridge rose steeply red, unmarked by traces of snow. The horses breasted the trail at a trot and I drew rein at the top of the ridge to let them blow. Eastward the succession of parallel ridges rolled toward the desert basin, but to the west the country was steeper and more rugged, a confusion of dark ridges pitching against one another at differing angles. This side of Commissary a trough ran south to meet the forested headwall overlooked by Electric Peak, a massive head of red ore surmounted by a fringe of pine forest. The declining sun, reaching under the brim of my hat, burned my right cheek as we rode toward the park behind the headwall, and a dark cloud standing like the column of the Lord above the southern end of the ridge.

We made Red Park in half an hour. I tied up in an edge of pine and was pulling the packs from the mare when the first roll of thunder arrived. The cloud had spread and darkened, and I guessed that the storm would strike hard to the south before moving east toward the Green River. I unsaddled the gelding and picketed the horses on the new grass. The next time I heard thunder, the tent was up inside the trees and the packs lay around it on the pine needle ground. Mammatus hung from the boiling clouds overhead as the rain began to fall. I tucked the packs inside the tent and ran to unstake the horses, who had dropped their heads and turned their rumps toward the wind and hail. Electric Peak drew down lightning in streaks of fire, and bolts struck around the park with a tearing sound, followed by the crash. I tied the horses in the trees with numbed fingers, wet to the skin and shaking violently from a deep cold. Inside the tent I stripped away my soaked clothes and crawled naked into the sleeping bag. I lay in the bag for an hour while the shivering subsided slowly and the storm rumbled away to the north, following the line of the ridge. Then I dressed in dry clothes and emerged from the tent into winter, everything white but the dark green of the pine trees and hail a foot deep on the ground.

I gathered dry wood within the forest and built a fire. While the coffee boiled I repicketed the horses on the melting hail, and brought the whiskey bottle from the packs. Standing above the hot fire I drank coffee and whiskey from a tin cup while the red wafer of sun went down in Idaho, turning the mountains pink with the evening light. Droplets of water from the dripping pine branches fell with a hissing sound into the Pentecostal flames that warmed me from the outside while the whiskey worked within, and the horses pulled noisily at the new grass where the last of the hailstones soaked through it into the red soil beneath. I was dry, almost warm now, and in a few minutes it would be spring again. Taking the cup I climbed to the top of the ridge and looked north to the Fontenelle Lakes, where the elk had emerged from the timber to graze along the edge of the slough. They made a herd of about 30 head, including several new calves and a few good bulls. I watched them until the cup was empty. Then I walked downhill again through the trees, where a fire was already burning on the red wet earth.

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